STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

2007 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 2007

BEGINNING ON

WEDNESDAY, THE TWENTY-FOURTH DAY OF JANUARY, A.D. 2007
AND
RECONVENED
MONDAY, THE TENTH DAY OF SEPTEMBER, A.D. 2007

AND AT ITS

EXTRA SESSION 2007

BEGINNING ON

TUESDAY, THE ELEVENTH OF SEPTEMBER, A.D. 2007

HELD IN THE CITY OF RALEIGH

ISSUED BY
SECRETARY OF STATE ELAINE F. MARSHALL

PUBLISHED BY AUTHORITY

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 2007 GENERAL ASSEMBLY

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

EXECUTIVE BRANCH

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

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

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is designated Democrat by the abbreviation "D" and designated Republican by the abbreviation "R".

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Easley are carried in this volume.

SENATE OFFICERS

Name	*Position*	*Address*
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MARC BASNIGHT	President Pro Tempore	Manteo, Dare County
CHARLIE S. DANNELLY	Deputy President Pro Tempore	Charlotte, Mecklenburg County
JANET B. PRUITT	Principal Clerk	Raleigh, Wake County
TED HARRISON	Reading Clerk	Cary, Wake County
CECIL R. GOINS	Sergeant-at-Arms	Raleigh, Wake County

SENATORS

District		Name	Party	County	Address
1		MARC BASNIGHT	D	Dare	Manteo
2		JEAN R. PRESTON	R	Carteret	Emerald Isle
3		S. CLARK JENKINS	D	Edgecombe	Tarboro
4	*	ROBERT LEE HOLLOMAN	D	Hertford	Ahoskie
	+	EDWARD W. JONES	D	Halifax	Enfield
5		JOHN H. KERR III	D	Wayne	Goldsboro
6		HARRY BROWN	R	Onslow	Jacksonville
7		DOUG BERGER	D	Franklin	Youngsville
8		R.C. SOLES, JR.	D	Columbus	Tabor City
9		JULIA BOSEMAN	D	New Hanover	Wilmington
10		CHARLES W. ALBERTSON	D	Duplin	Beulaville
11		A.B. SWINDELL IV	D	Nash	Nashville
12		FRED SMITH	R	Johnston	Clayton
13		DAVID F. WEINSTEIN	D	Robeson	Lumberton
14		VERNON MALONE	D	Wake	Raleigh
15		NEAL HUNT	R	Wake	Raleigh
16		JANET COWELL	D	Wake	Raleigh
17		RICHARD Y. STEVENS	R	Wake	Cary
18		ROBERT ATWATER	D	Chatham	Chapel Hill
19		TONY RAND	D	Cumberland	Fayetteville
20	**	JEANNE H. LUCAS	D	Durham	Durham
	++	FLOYD B. MCKISSICK, JR.	D	Durham	Durham
21		LARRY SHAW	D	Cumberland	Fayetteville
22		HARRIS BLAKE	R	Moore	Pinehurst
23		ELEANOR KINNAIRD	D	Orange	Carrboro
24		ANTHONY E. FORIEST	D	Alamance	Graham
25		WILLIAM R. PURCELL	D	Scotland	Laurinburg
26		PHILIP E. BERGER	R	Rockingham	Eden
27		KAY R. HAGAN	D	Guilford	Greensboro
28		KATIE G. DORSETT	D	Guilford	Greensboro
29		JERRY W. TILLMAN	R	Randolph	Archdale
30		DON W. EAST	R	Surry	Pilot Mountain
31		PETER S. BRUNSTETTER	R	Forsyth	Lewisville
32		LINDA GARROU	D	Forsyth	Winston-Salem
33		STAN BINGHAM	R	Davidson	Denton
34		ANDREW C. BROCK	R	Davie	Mocksville
35		W. EDWARD GOODALL, JR.	R	Union	Weddington
36		FLETCHER L. HARTSELL, JR.	R	Cabarrus	Concord
37		DANIEL G. CLODFELTER	D	Mecklenburg	Charlotte
38		CHARLIE S. DANNELLY	D	Mecklenburg	Charlotte
39		ROBERT PITTENGER	R	Mecklenburg	Charlotte
40		MALCOLM GRAHAM	D	Mecklenburg	Charlotte
41		JAMES FORRESTER	R	Gaston	Mt. Holly
42		AUSTIN M. ALLRAN	R	Catawba	Hickory
43		DAVID W. HOYLE	D	Gaston	Dallas
44		JIM JACUMIN	R	Burke	Connelly Springs
45		STEVE GOSS	D	Watauga	Boone
46		WALTER H. DALTON	D	Rutherford	Rutherfordton
47		JOE SAM QUEEN	D	Haywood	Waynesville
48		TOM APODACA	R	Henderson	Hendersonville
49		MARTIN L. NESBITT, JR.	D	Buncombe	Asheville
50		JOHN J. SNOW, JR.	D	Cherokee	Murphy

* Deceased January 8, 2007
** Deceased March 9, 2007
\+ Appointed January 24, 2007
\+\+ Appointed April 17, 2007

HOUSE OFFICERS

Name	*Position*	*Address*
JOE HACKNEY	Speaker	Chapel Hill, Orange County
WILLIAM L. WAINWRIGHT	Speaker Pro Tempore	Havelock, Craven County
DENISE G. WEEKS	Principal Clerk	Raleigh, Wake County
ROBERT R. SAMUELS	Sergeant-at-Arms	Charlotte, Mecklenburg County

REPRESENTATIVES

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

58		ALMA S. ADAMS	D	Guilford	Greensboro
59		MAGGIE JEFFUS	D	Guilford	Greensboro
60		EARL JONES	D	Guilford	Greensboro
61		LAURA I. WILEY	R	Guilford	High Point
62		JOHN M. BLUST	R	Guilford	Greensboro
63		ALICE L. BORDSEN	D	Alamance	Mebane
64		CARY D. ALLRED	R	Alamance	Burlington
65		E. NELSON COLE	D	Rockingham	Reidsville
66		MELANIE WADE GOODWIN	D	Richmond	Rockingham
67	***	DAVID D. ALMOND, JR.	R	Stanly	Stanfield
	+++	KEN R. FURR	R	Stanly	Albemarle
68		J. CURTIS BLACKWOOD, JR.	R	Union	Matthews
69		PRYOR A. GIBSON, III	D	Anson	Wadesboro
70		PAT B. HURLEY	R	Randolph	Asheboro
71		LARRY W. WOMBLE	D	Forsyth	Winston-Salem
72		EARLINE W. PARMON	D	Forsyth	Winston-Salem
73		LARRY R. BROWN	R	Forsyth	Kernersville
74		DALE R. FOLWELL	R	Forsyth	Winston-Salem
75		WILLIAM C. MCGEE	R	Forsyth	Clemmons
76		FRED F. STEEN, II	R	Rowan	Landis
77		LORENE T. COATES	D	Rowan	Salisbury
78		HAROLD J. BRUBAKER	R	Randolph	Asheboro
79		JULIA C. HOWARD	R	Davie	Mocksville
80		JERRY C. DOCKHAM	R	Davidson	Denton
81		L. HUGH HOLLIMAN	D	Davidson	Lexington
82		JEFFREY L. BARNHART	R	Cabarrus	Concord
83		LINDA P. JOHNSON	R	Cabarrus	Kannapolis
84		PHILLIP D. FRYE	R	Mitchell	Spruce Pine
85		MITCH GILLESPIE	R	McDowell	Marion
86		WALTER G. CHURCH, SR.	D	Burke	Valdese
87		EDGAR V. STARNES	R	Caldwell	Hickory
88		RAY WARREN	D	Alexander	Hiddenite
89		MITCHELL S. SETZER	R	Catawba	Catawba
90		JAMES A. HARRELL, III	D	Surry	Elkin
91		BRYAN R. HOLLOWAY	R	Stokes	King
92		GEORGE M. HOLMES	R	Yadkin	Hamptonville
93		CULLIE M. TARLETON	D	Watauga	Blowing Rock
94		R. TRACY WALKER	R	Wilkes	Wilkesboro
95		KAREN B. RAY	R	Iredell	Mooresville
96		MARK K. HILTON	R	Catawba	Conover
97		JOE L. KISER	R	Lincoln	Vale
98		THOM TILLIS	R	Mecklenburg	Huntersville
99		DREW P. SAUNDERS	D	Mecklenburg	Huntersville
100	****	JAMES B. BLACK	D	Mecklenburg	Matthews
	++++	TRICIA ANN COTHAM	D	Mecklenburg	Charlotte
101		BEVERLY M. EARLE	D	Mecklenburg	Charlotte
102		BECKY CARNEY	D	Mecklenburg	Charlotte
103		JIM GULLEY	R	Mecklenburg	Matthews
104		RUTH C. SAMUELSON	R	Mecklenburg	Charlotte
105		RICHARD D. KILLIAN	R	Mecklenburg	Charlotte
106		MARTHA B. ALEXANDER	D	Mecklenburg	Charlotte
107		W. PETE CUNNINGHAM	D	Mecklenburg	Charlotte
108		WIL NEUMANN	R	Gaston	Belmont
109		WILLIAM A. CURRENT, SR.	R	Gaston	Gastonia
110		DEBBIE A. CLARY	R	Cleveland	Cherryville
111		TIM MOORE	R	Cleveland	Shelby
112		BOBBY F. ENGLAND	D	Rutherford	Ellenboro
113		TRUDI WALEND	R	Transylvania	Brevard
114		SUSAN C. FISHER	D	Buncombe	Asheville
115		D. BRUCE GOFORTH	D	Buncombe	Asheville
116		CHARLES C. THOMAS	R	Buncombe	Asheville
117		CAROLYN K. JUSTUS	R	Henderson	Hendersonville
118		RAYMOND C. RAPP	D	Madison	Mars Hill
119		R. PHILLIP HAIRE	D	Jackson	Sylva
120		ROGER WEST	R	Cherokee	Marble

*	Deceased January 7, 2007	+	Appointed January 23, 2007
**	Resigned January 23, 2007	++	Appointed January 23, 2007
***	Resigned July 12, 2007	+++	Appointed August 15, 2007
****	Resigned February 14, 2007	++++	Appointed March 22, 2007

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE MARC BASNIGHT, *COCHAIR*

HOUSE SPEAKER JOE HACKNEY, *COCHAIR*

SEN. THOMAS M. APODACA	REP. DANIEL T. BLUE, JR.
SEN. LINDA D. GARROU	REP. HAROLD J. BRUBAKER
SEN. VERNON MALONE	REP. E. NELSON COLE
SEN. ANTHONY E. RAND	REP. JULIA CRAVEN HOWARD
SEN. LARRY SHAW	REP. JOE LEONARD KISER
SEN. R.C. SOLES, JR.	REP. WILLIAM CLARENCE OWENS, JR.
SEN. JERRY W. TILLMAN	REP. WILLIAM L. WAINWRIGHT

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TONY C. GOLDMAN	Director of the Administrative Division
GERRY F. COHEN	Director of the Bill Drafting Division
LYNN R. MUCHMORE	Director of the Fiscal Research Division
DENNIS W. MCCARTY	Director of the Information Systems Division
*JOHN W. TURCOTTE	Director of the Program Evaluation Division
TERRENCE D. SULLIVAN	Director of the Research Division

* The Program Evaluation Division was established by SL 2007-78 effective June 14, 2007.

PREAMBLE

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

ARTICLE I
DECLARATION OF RIGHTS

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

Section 1. The equality and rights of persons.

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

Sec. 2. Sovereignty of the people.

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

Sec. 3. Internal government of the State.

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

Sec. 4. Secession prohibited.

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

Sec. 5. Allegiance to the United States.

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

Sec. 6. Separation of powers.

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

Sec. 7. Suspending laws.

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

Sec. 8. Representation and taxation.

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

Sec. 9. Frequent elections.

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

Sec. 10. Free elections.

All elections shall be free.

Sec. 11. Property qualifications.

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

Sec. 12. Right of assembly and petition.

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

Sec. 13. Religious liberty.

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

Sec. 14. Freedom of speech and press.

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

Sec. 15. Education.

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

Sec. 16. Ex post facto laws.

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

Sec. 17. Slavery and involuntary servitude.

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

Sec. 18. Court shall be open.

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

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

No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Sec. 20. General warrants.

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

Sec. 21. Inquiry into restraints on liberty.

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

Sec. 22. Modes of prosecution.

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

Sec. 23. Rights of accused.

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

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

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

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

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

Sec. 26. Jury service.

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

Sec. 27. Bail, fines, and punishments.

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

Sec. 28. Imprisonment for debt.

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

Sec. 29. Treason against the State.

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

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

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

Sec. 31. Quartering of soldiers.

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

Sec. 32. Exclusive emoluments.

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

Sec. 33. Hereditary emoluments and honors.

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

Sec. 34. Perpetuities and monopolies.

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

Sec. 35. Recurrence to fundamental principles.

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

Sec. 36. Other rights of the people.

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

Sec. 37. Rights of victims of crime.

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

(a) The right as prescribed by law to be informed of and to be present at court proceedings of the accused.

(b) The right to be heard at sentencing of the accused in a manner prescribed by law, and at other times as prescribed by law or deemed appropriate by the court.

(c) The right as prescribed by law to receive restitution.

(d) The right as prescribed by law to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.

(e) The right as prescribed by law to receive information about the conviction or final disposition and sentence of the accused.

(f) The right as prescribed by law to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or commutation of the accused's sentence.

(g) The right as prescribed by law to present their views and concerns to the Governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.

(h) The right as prescribed by law to confer with the prosecution.

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

(3) No ground for relief in criminal case. The failure or inability of any person to provide a right or service provided under this section may not be used by a defendant in a criminal case, an inmate, or any other accused as a ground for relief in any trial, appeal, postconviction litigation, habeas corpus, civil action, or any similar criminal or civil proceeding. (1995, c. 438, s. 1.)

ARTICLE II
LEGISLATIVE

Section 1. Legislative power.

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

Sec. 2. Number of Senators.

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

Sec. 3. Senate districts; apportionment of Senators.

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

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

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

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

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

Sec. 4. Number of Representatives.

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

Sec. 5. Representative districts; apportionment of Representatives.

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

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

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

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

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

Sec. 6. Qualifications for Senator.

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

Sec. 7. Qualifications for Representative.

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

Sec. 8. Elections.

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

Sec. 9. Term of office.

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

Sec. 10. Vacancies.

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

Sec. 11. Sessions.

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

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

Sec. 12. Oath of members.

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

Sec. 13. President of the Senate.

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

Sec. 14. Other officers of the Senate.

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

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

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

Sec. 15. Officers of the House of Representatives.

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

Sec. 16. Compensation and allowances.

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

Sec. 17. Journals.

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

Sec. 18. Protests.

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

Sec. 19. Record votes.

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

Sec. 20. Powers of the General Assembly.

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

Sec. 21. Style of the acts.

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

Sec. 22. Action on bills.

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

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

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

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

(5) Other exceptions. Every bill:

(a) In which the General Assembly makes an appointment or appointments to public office and which contains no other matter;

(b) Revising the senate districts and the apportionment of Senators among those districts and containing no other matter;

(c) Revising the representative districts and the apportionment of Representatives among those districts and containing no other matter; or

(d) Revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of Representatives among those districts and containing no other matter,

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

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

(a) Would extend the application of a law signed by the presiding officers during that two year term of the General Assembly so that the law would apply in more than half the counties in the State, or

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

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

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

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

(b) Sine die

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

vetoed legislation is unnecessary, the Governor shall not reconvene the session for that purpose and any legislation vetoed in accordance with this section after adjournment shall not become law.

(8) Return of bills after adjournment. For purposes of return of bills not approved by the Governor, each house shall designate an officer to receive returned bills during its adjournment. (1995, c. 5, s. 1.)

Sec. 23. Revenue bills.

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

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

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

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

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

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

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

ARTICLE III
EXECUTIVE

Section 1. Executive power.

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

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

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

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

Sec. 3. Succession to office of Governor.

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

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

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

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

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

Sec. 4. Oath of office for Governor.

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

Sec. 5. Duties of Governor.

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

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

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

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

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

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

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

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

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

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

(10) Administrative reorganization. The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the

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

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

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

(b) Sine die. If the date of reconvening the session occurs after the expiration of the terms of office of the members of the General Assembly, then the members serving for the reconvened session shall be the members for the succeeding term. (1969, c. 932, s. 1; 1977, c. 690, s. 1; 1995, c. 5, s. 2.)

Sec. 6. Duties of the Lieutenant Governor.

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

Sec. 7. Other elective officers.

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

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

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

(4) Interim officers. Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may

appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

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

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

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

Sec. 8. Council of State.

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

Sec. 9. Compensation and allowances.

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

Sec. 10. Seal of State.

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

Sec. 11. Administrative departments.

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

ARTICLE IV
JUDICIAL

Section 1. Judicial power.

The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the

government, nor shall it establish or authorize any courts other than as permitted by this Article.

Sec. 2. General Court of Justice.

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

Sec. 3. Judicial powers of administrative agencies.

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

Sec. 4. Court for the Trial of Impeachments.

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

Sec. 5. Appellate division.

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

Sec. 6. Supreme Court.

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

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

Sec. 7. Court of Appeals.

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

Sec. 8. Retirement of Justices and Judges.

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

Sec. 9. Superior Courts.

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

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

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

Sec. 10. District Courts.

The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The initial term of appointment for a magistrate shall be for two years and subsequent terms shall be for four years. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office, unless otherwise provided by the General Assembly. (2004-128, s. 16.)

Sec. 11. Assignment of Judges.

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

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

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

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

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

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

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

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

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

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

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

Sec. 14. Waiver of jury trial.

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

Sec. 15. Administration.

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

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

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

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

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

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

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

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

Sec. 18. District Attorney and Prosecutorial Districts.

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

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

Sec. 19. Vacancies.

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

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

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

Sec. 21. Fees, salaries, and emoluments.

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

Sec. 22. Qualification of Justices and Judges.

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

ARTICLE V
FINANCE

Section 1. No capitation tax to be levied.

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

Sec. 2. State and local taxation.

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

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

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

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

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

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

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

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

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

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections, or to repel invasions;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

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

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

(4) Certain debts barred. The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

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

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

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

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

(a) to fund or refund a valid existing debt;

(b) to supply an unforseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for purposes authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) Gift or loan of credit regulated. No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person,

association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

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

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

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

Sec. 5. Acts levying taxes to state objects.

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

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

(1) Sinking funds. The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

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

Sec. 7. Drawing public money.

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

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

Sec. 8. Health care facilities.

Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost

incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

Sec. 9. Capital projects for industry.

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

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

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

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

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

Sec. 11. Capital projects for agriculture.

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

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

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

Sec. 12. Higher education facilities.

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

Sec. 13. Seaport and airport facilities.

(1) Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to grant to the State, counties, municipalities, and other State and local governmental entities all powers useful in connection with the development of new and existing seaports and airports, and to authorize such public bodies:

(a) to acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interest therein;

(b) to finance and refinance for public and private parties seaport and airport facilities and improvements which relate to, develop or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements; and

(c) to secure any such financing or refinancing by all or any portion of their revenues, income or assets or other available monies associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of their properties associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State.

Sec. 14. Project development financing.

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

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

ARTICLE VI
SUFFRAGE AND ELIGIBILITY TO OFFICE

Section 1. Who may vote.

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

Sec. 2. Qualifications of voter.

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

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

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

Sec. 3. Registration.

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

Sec. 4. Qualification for registration.

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

Sec. 5. Elections by people and General Assembly.

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

Sec. 6. Eligibility to elective office.

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

Sec. 7. Oath.

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

"I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me God."

Sec. 8. Disqualifications for office.

The following persons shall be disqualified for office:

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

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

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

Sec. 9. Dual office holding.

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

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

Sec. 10. Continuation in office.

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

ARTICLE VII
LOCAL GOVERNMENT

Section 1. General Assembly to provide for local government.

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

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

Sec. 2. Sheriffs.

In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

Sec. 3. Merged or consolidated counties.

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

ARTICLE VIII
CORPORATIONS

Section 1. Corporate charters.

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

Sec. 2. Corporations defined.

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

ARTICLE IX
EDUCATION

Section 1. Education encouraged.

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

Sec. 2. Uniform system of schools.

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

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

Sec. 3. School attendance.

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

Sec. 4. State Board of Education.

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

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

Sec. 5. Powers and duties of Board.

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

Sec. 6. State school fund.

The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State,

and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

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

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

(b) The General Assembly may place in a State fund the clear proceeds of all civil penalties, forfeitures, and fines which are collected by State agencies and which belong to the public schools pursuant to subsection (a) of this section. Moneys in such State fund shall be faithfully appropriated by the General Assembly, on a per pupil basis, to the counties, to be used exclusively for maintaining free public schools. (2003-423, s.1.)

Sec. 8. Higher education.

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

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

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

Sec. 10. Escheats.

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

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

ARTICLE X
HOMESTEADS AND EXEMPTIONS

Section 1. Personal property exemptions.

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

Sec. 2. Homestead exemptions.

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

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

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

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

Sec. 3. Mechanics' and laborers' liens.

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

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

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

Sec. 5. Insurance.

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

ARTICLE XI
PUNISHMENTS, CORRECTIONS, AND CHARITIES

Section 1. Punishments.

The following punishments only shall be known to the laws of this State: death, imprisonment, fines, suspension of a jail or prison term with or without conditions, restitution, community service, restraints on liberty, work programs, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State. (1995, c. 429, s. 2.)

Sec. 2. Death punishment.

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

Sec. 3. Charitable and correctional institutions and agencies.

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

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

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

ARTICLE XII
MILITARY FORCES

Section 1. Governor is Commander in Chief.

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

ARTICLE XIII
CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

Section 1. Convention of the People.

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

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

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

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

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

Sec. 4. Revision or amendment by legislative initiation.

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

ARTICLE XIV
MISCELLANEOUS

Section 1. Seat of government.

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

Sec. 2. State boundaries.

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

Sec. 3. General laws defined.

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

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

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

Sec. 5. Conservation of natural resources.

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

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

Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes. (1971, c. 630, s. 1; as amended)

SESSION LAWS

OF THE

STATE OF NORTH CAROLINA

REGULAR SESSION 2007

EXTRA SESSION 2007

Session Law 2007-1 **House Bill 33**

AN ACT INCREASING THE FORCE ACCOUNT LIMIT FOR CATAWBA COUNTY AS TO THE CONSTRUCTION OF CERTAIN LANDFILLS IN THAT COUNTY.

The General Assembly of North Carolina enacts:

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

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

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000).~~ eight hundred thousand dollars ($800,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 2. This act applies only to the construction of the Catawba County Blackburn Landfill Construction and Demolition Landfill Unit 2.

SECTION 3. This act becomes effective June 1, 2007, and expires December 1, 2008.

In the General Assembly read three times and ratified this the 12th day of March, 2007.

Became law on the date it was ratified.

Session Law 2007-2 **Senate Bill 50**

AN ACT TO DIRECT THE WILDLIFE RESOURCES COMMISSION TO INVESTIGATE THE POTENTIAL FOR AGREEMENTS WITH OTHER STATES FOR THE RECIPROCAL HONORING OF HUNTING AND FISHING LICENSES FOR THE DISABLED.

The General Assembly of North Carolina enacts:

SECTION 1. The Wildlife Resources Commission shall, pursuant to its authority under G.S. 113-275(a), investigate the potential for agreements with other jurisdictions for the reciprocal honoring of hunting and fishing licenses for the disabled.

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

In the General Assembly read three times and ratified this the 14th day of March, 2007.

Became law upon approval of the Governor at 1:31 p.m. on the 22nd day of March, 2007.

Session Law 2007-3 **House Bill 217**

AN ACT AUTHORIZING THE TOWNS OF CORNELIUS AND DAVIDSON TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE TOWN'S PUBLIC NUISANCE ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2005-44 reads as rewritten:

"**SECTION 2.** This act applies to the ~~Town of~~ Towns of Cornelius, Davidson, and Matthews only."

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

In the General Assembly read three times and ratified this the 26th day of March, 2007.

Became law on the date it was ratified.

Session Law 2007-4 **Senate Bill 74**

AN ACT TO ADD VARIOUS MUNICIPALITIES TO THE AREAS LAW ENFORCEMENT OFFICERS AND EMPLOYEES MAY USE ALL-TERRAIN VEHICLES ON HIGHWAYS WITH POSTED SPEED LIMITS OF THIRTY-FIVE MILES PER HOUR OR LESS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2004-108, as rewritten by S.L. 2005-305, S.L. 2006-25, and S.L. 2006-116, reads as rewritten:

"**SECTION 3.** Section 1 of this act applies to the ~~City of Albemarle and the~~ Towns of Beaufort, Highlands, Southern Shores, and Mint Hill only. Section 2 of this act applies to the Towns of Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas,

Duck, Emerald Isle, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, Oakboro, Ocean Isle Beach, North Topsail Beach, Pine Knoll Shores, Stanley, Surf City, Topsail Beach, and ~~Stanley,~~ Wrightsville Beach, the Cities of Albemarle, Belmont, Cherryville, Gastonia, Kings ~~Mountain and Mount Holly,~~ Mountain, Mount Holly, and Rockingham and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only. The term 'municipal employee' shall include employees of a county."

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

In the General Assembly read three times and ratified this the 26th day of March, 2007.

Became law on the date it was ratified.

Session Law 2007-5 **Senate Bill 377**

AN ACT AUTHORIZING THE TOWN OF LEWISVILLE TO CONDUCT AN ADVISORY REFERENDUM ON ACQUIRING LAND TO BE USED FOR PARK AND RECREATIONAL PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. The Lewisville Town Council may, by resolution, direct the Forsyth County Board of Elections to conduct an advisory referendum on whether the Town should acquire certain properties to be used for park and recreational purposes. The form of the question to be presented on a ballot for such a referendum shall be:

"[ ] FOR [ ] AGAINST

The acquisition of land to be used for parks and/or recreational purposes, provided that adequate funding is available from any source that is legally available for the Town's use, including property taxes."

The referendum shall be conducted in accordance with Chapter 163 of the General Statutes.

SECTION 2. This act is effective when it becomes law but expires December 31, 2007.

In the General Assembly read three times and ratified this the 3rd day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-6 **House Bill 61**

AN ACT TO AMEND THE CHILD RESTRAINT LAW TO ENSURE COMPLIANCE WITH FEDERAL REGULATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-137.1 reads as rewritten:

"§ **20-137.1. Child restraint systems required.**

(a) Every driver who is transporting one or more passengers of less than 16 years of age shall have all such passengers properly secured in a child passenger restraint system or seat belt which meets federal standards applicable at the time of its manufacture.

(a1) A child less than eight years of age and less than 80 pounds in weight shall be properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped with an active passenger-side front air bag, if the vehicle has a rear seat, a

child less than five years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless the child restraint system is designed for use with air bags. If no seating position equipped with a lap and shoulder belt to properly secure the weight-appropriate child passenger restraint system is available, a child less than eight years of age and between 40 and 80 pounds may be restrained by a properly fitted lap belt only.

(b) The provisions of this section shall not apply: (i) to ambulances or other emergency vehicles; ~~(ii) when the child's personal needs are being attended to; (iii)~~(ii) if all seating positions equipped with child passenger restraint systems or seat belts are occupied; or ~~(iv)~~(iii) to vehicles which are not required by federal law or regulation to be equipped with seat belts.

(c) Any driver found responsible for a violation of this section may be punished by a penalty not to exceed twenty-five dollars ($25.00), even when more than one child less than 16 years of age was not properly secured in a restraint system. No driver charged under this section for failure to have a child under eight years of age properly secured in a restraint system shall be convicted if he produces at the time of his trial proof satisfactory to the court that he has subsequently acquired an approved child passenger restraint system for a vehicle in which the child is normally transported.

(d) A violation of this section shall have all of the following consequences:

(1) Two drivers license points shall be assessed pursuant to G.S. 20-16.

(2) No insurance points shall be assessed.

(3) The violation shall not constitute negligence per se or contributory negligence per se.

(4) The violation shall not be evidence of negligence or contributory negligence."

SECTION 2. This act becomes effective June 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 26th day of March, 2007.

Became law upon approval of the Governor at 2:45 p.m. on the 4th day of April, 2007.

Session Law 2007-7 **House Bill 124**

AN ACT TO AMEND THE EMBARGO AUTHORITY OF THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES AND LOCAL HEALTH DIRECTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-21(a) reads as rewritten:

"(a) In addition to the authority of the Department of Agriculture and Consumer Services pursuant to G.S. 106-125, the Secretary of Environment and Natural Resources or a local health director has authority to exercise embargo authority concerning food or drink pursuant to G.S. 106-125(a), (b) and (c) when the food or drink is in an establishment that is subject to regulation by the Department of Environment and Natural Resources pursuant to this ~~Chapter~~ Chapter, that is subject to rules adopted by the Commission, or that is the subject of an investigation pursuant to G.S. 130A-144; however, no such action shall be taken in any establishment or part of an establishment that is under inspection or otherwise regulated by the Department of Agriculture and

Consumer Services or the United States Department of Agriculture other than the part of the establishment that is subject to regulation by the Department of Environment and Natural Resources pursuant to this Chapter. Any action under this section shall only be taken by, or after consultation with, Department of Environment and Natural Resources regional environmental health specialists, or ~~their superiors,~~the Director of the Division of Environmental Health or the Director's designee, in programs regulating food and drink pursuant to this ~~Chapter.~~Chapter or in programs regulating food and drink that are subject to rules adopted by the Commission. Authority under this section shall not be delegated to individual environmental health specialists in local health departments otherwise authorized and carrying out laws and rules pursuant to G.S. 130A-4. When any action is taken pursuant to this section, the Department of Environment and Natural Resources or the local health director shall immediately notify the Department of Agriculture and Consumer Services. For the purposes of this subsection, all duties and procedures in G.S. 106-125 shall be carried out by the Secretary of the Department of Environment and Natural Resources or the local health director and shall not be required to be carried out by the Department of Agriculture and Consumer Services. It shall be unlawful for any person to remove or dispose of the food or drink by sale or otherwise without the permission of a Department of Environment and Natural Resources regional environmental health ~~specialist~~ specialist, the Director of the Division of Environmental Health or the Director's designee, the local health director, or a duly authorized agent of the Department of Agriculture and Consumer Services, or by the court in accordance with the provisions of G.S. 106-125."

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

In the General Assembly read three times and ratified this the 26th day of March, 2007.

Became law upon approval of the Governor at 2:46 p.m. on the 4th day of April, 2007.

Session Law 2007-8 **House Bill 123**

AN ACT TO AUTHORIZE THE STATE HEALTH DIRECTOR TO SHARE EMERGENCY DEPARTMENT DATA WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) FOR PUBLIC HEALTH PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-480 reads as rewritten:

"§ **130A-480. Emergency department data reporting.**

(a) For the purpose of ensuring the protection of the public health, the State Health Director shall develop a syndromic surveillance program for hospital emergency departments in order to detect and investigate public health threats that may result from (i) a terrorist incident using nuclear, biological, or chemical agents or (ii) an epidemic or infectious, communicable, or other disease. The State Health Director shall specify the data to be reported by hospitals pursuant to this program, subject to the following:

(1) Each hospital shall submit electronically available emergency department data as specified by rule by the Commission. The Commission, in consultation with hospitals, shall establish by rule a schedule for the implementation of full electronic reporting capability of all data elements by all hospitals. The schedule shall take into consideration the number of data elements already reported by the

hospital, the hospital's capacity to electronically maintain the remaining elements, available funding, and other relevant factors.

(2) None of the following data for patients or their relatives, employers, or household members may be collected by the State Health Director: names; postal or street address information, other than town or city, county, state, and the first five digits of the zip code; geocode information; telephone numbers; fax numbers; electronic mail addresses; social security numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators (URLs); Internet protocol (IP) address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(b) The following are not public records under Chapter 132 of the General Statutes and are privileged and confidential:

(1) Data reported to the State Health Director pursuant to this section.

(2) Data collected or maintained by any entity with whom the State Health Director contracts for the reporting, collection, or analysis of data pursuant to this section.

The State Health Director shall maintain the confidentiality of the data reported pursuant to this section and shall ensure that adequate measures are taken to provide system security for all data and information. The State Health Director may share data with local health departments and the Centers for Disease Control and Prevention (CDC) for public health ~~purposes, and the local~~ purposes. Local health departments are bound by the confidentiality provisions of this section. The Department shall enter into an agreement with the CDC to ensure that the CDC complies with the confidentiality provisions of this section. The State Health Director shall not allow information that it receives pursuant to this section to be used for commercial purposes and shall not release data except as authorized by other provisions of law.

(c) A person is immune from liability for actions arising from the required submission of data under this Article.

(d) For purposes of this section, "hospital" means a hospital, as defined in G.S. 131E-214.1(3), that operates an emergency room on a 24-hour basis. The term does not include a psychiatric hospital that operates an emergency room.

(e) Administrative emergency department data shall be reported by hospitals under Article 11A of Chapter 131E of the General Statutes."

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

In the General Assembly read three times and ratified this the 26th day of March, 2007.

Became law upon approval of the Governor at 2:49 p.m. on the 4th day of April, 2007.

Session Law 2007-9 **Senate Bill 193**

AN ACT TO ASSIST GASTON AND LINCOLN COUNTIES IN RESOLVING THEIR COMMON BOUNDARY BY ALLOWING THEM TO VARY FROM THE LINE ESTABLISHED BY THE 1963 GENERAL ASSEMBLY TO RECOGNIZE HISTORICAL PRACTICE.

Whereas, the General Assembly, by passage of Chapter 596 of the 1963 Session Laws, established the official county line of Gaston County; and

Whereas, that act provided for the map to be recorded in Gaston County and the contiguous counties, and constituted the official county line; and

Whereas, the map was never recorded or implemented, but was recently discovered as Gaston and Lincoln Counties worked to establish their common boundaries, which were recognized by more modern mapping and surveying to be inaccurate; and

Whereas, historical patterns of recognition of the county line have grown up, recognized by tax offices, school systems, and boards of elections; and

Whereas, the two counties feel hamstrung by the 1963 local act and by the current procedures in G.S. 153A-18 for settling boundary disputes; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 596 of the 1963 Session Laws reads as rewritten:

"Section 1. (a) The official county lines of Gaston County, and the official township lines of the various townships in said county shall be as indicated on that certain map entitled "Gaston County, N. C., map of county and township lines, dated April, 1963, surveyed by Findlay, Witheres, McConnoughey, Inc., Registered Surveyors.

(b) Notwithstanding subsection (a) of this section, the Counties of Gaston and Lincoln shall establish in accordance with G.S. 153A-18 the line between those two counties as provided on that map, but respecting to the extent practicable the line as it has been observed in practice, provided that the line does not make any territory in one county noncontiguous to the remainder of the county. In any case where the tax treatment of a parcel has in practice been divided in some proportion between the two counties without drawing of an actual line, the two counties may divide the properties proportionally between the two counties. Until the line has been established in accordance with this subsection, the line shall continue to be administered as it has been in practice, rather than as provided by subsection (a) of this section. This subsection does not have any effect on the action of the Board of Commissioners of Gaston County in 1979 to alter the boundary between Gastonia and Southpoint Townships."

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

In the General Assembly read three times and ratified this the 4th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-10 **Senate Bill 1531**

AN ACT TO APPOINT JERRY BLACKMON TO THE STATE ETHICS COMMISSION UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives; and

Whereas, the President Pro Tempore of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Jerry Blackmon of Mecklenburg County is appointed to the State Ethics Commission to fill the vacancy caused by the resignation of R.B. Sloan, Jr. for the remainder of the term expiring December 31, 2008.

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

In the General Assembly read three times and ratified this the 10th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-11 **House Bill 571**

AN ACT TO PERMIT THE TAKING OF FOXES AND COYOTES BY TRAPPING IN CUMBERLAND, HARNETT, AND MOORE COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes and coyotes by trapping from October 1 through January 31 of each year. This section applies only to Moore County.

SECTION 1.1. Notwithstanding any other provision of law, there is an open season for taking foxes and coyotes by trapping from December l through January 31 of each year. This section applies only to Cumberland and Harnett Counties.

SECTION 2. A season bag limit of 10 applies in the aggregate to all foxes taken during the trapping season established in this act. No bag limit applies to coyotes taken under this act.

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

SECTION 4. This act applies only to Cumberland, Harnett, and Moore Counties.

SECTION 5. This act becomes effective October 1, 2007, and expires on September 30, 2010.

In the General Assembly read three times and ratified this the 10th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-12 **House Bill 1012**

AN ACT TO ABOLISH THE COMMISSION ON STATE PROPERTY AND TO TERMINATE ITS CONTRACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 78 of Chapter 143 of the General Statutes is repealed, and the Commission on State Property is abolished.

SECTION 2. The contract, entered into by the Commission on January 15, 2007, for technical or professional services, is terminated in accordance with paragraph 13 of the contract, as of the effective date of this act. This act shall constitute written notice to the contractor.

SECTION 3. The elimination of any employee positions in the Commission on State Property required by this act shall be deemed an economy in the State Budget, and any employee affected shall be entitled to benefits pursuant to G.S. 143-27.2.

SECTION 4. No finding or determination by the Commission before the effective date of this act that a property is or should be surplus is binding on the Department of Administration, nor is any selection by the Commission of any person, firm, or corporation to provide brokerage services with respect to any property. The determinations that any property is surplus, that there is a need for brokerage services, and the selection of a provider for any such needed services are in the sole discretion of the Department of Administration.

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

In the General Assembly read three times and ratified this the 10th day of April, 2007.

Became law upon approval of the Governor at 11:20 a.m. on the 12th day of April, 2007.

Session Law 2007-13 **Senate Bill 153**

AN ACT TO IMPLEMENT THE FEDERAL LAKE MATTAMUSKEET LODGE PRESERVATION ACT BY ACCEPTING THE TRANSFER AND PROVIDING THAT AFTER REPAIRS AND RENOVATIONS BY THE DEPARTMENT OF CULTURAL RESOURCES THE PROPERTY SHALL BE TRANSFERRED TO AND MANAGED BY THE WILDLIFE RESOURCES COMMISSION.

Whereas, the Lake Mattamuskeet Lodge Preservation Act, P.L. 109-358, became law October 16, 2006, and provides for transfer to the State of North Carolina of a parcel of real property consisting of approximately 6.25 acres and containing Mattamuskeet Lodge and surrounding property, including the Mattamuskeet National Wildlife Refuge headquarters; and

Whereas, Section 2(b) of that act provides the transfer is conditional on the State of North Carolina agreeing to restore and maintain the lodge in accordance with Article 1 of Chapter 121 of the General Statutes, the North Carolina Archives and History Act; and

Whereas, due to the unique nature of the property, after repairs and renovations are completed the Wildlife Resources Commission will be a more appropriate management agency; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-9.1. Lake Mattamuskeet Lodge Preservation.**

(a) Notwithstanding G.S. 121-9, the State of North Carolina accepts the transfer of the Mattamuskeet Lodge and surrounding property to the State under the Lake Mattamuskeet Lodge Preservation Act, P.L. 109-358. After completion of repairs and renovations by the Department of Cultural Resources, the property shall be transferred to and managed by the Wildlife Resources Commission.

(b) Any plans for repair and renovation of the Mattamuskeet Lodge from the Repairs and Renovations Reserve Account under G.S. 143-15.3A are subject to review by the Wildlife Resources Commission."

SECTION 2. Effective July 1, 2007, G.S. 121-9.1(b), as enacted by Section 1 of this act, reads as rewritten:

"(b) Any plans for repair and renovation of the Mattamuskeet Lodge from the Repairs and Renovations Reserve Account under ~~G.S. 143-15.3A~~ G.S. 143C-4-3 are subject to review by the Wildlife Resources Commission."

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

In the General Assembly read three times and ratified this the 2nd day of April, 2007.

Became law upon approval of the Governor at 11:22 a.m. on the 12th day of April, 2007.

Session Law 2007-14 **House Bill 42**

AN ACT TO AMEND CRIMINAL PROCEDURE LAWS AFFECTING DOMESTIC VIOLENCE VICTIMS AND TO REQUIRE DOMESTIC VIOLENCE HOMICIDE REPORTING AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-534.1 reads as rewritten:

"§ **15A-534.1. Crimes of domestic violence; bail and pretrial release.**

(a) In all cases in which the defendant is charged with assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married, with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes, the judicial official who determines the conditions of pretrial release shall be a judge, and the following provisions shall apply in addition to the provisions of G.S. 15A-534:

(1) Upon a determination by the judge that the immediate release of the defendant will pose a danger of injury to the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury or intimidation will not occur, a judge may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.

(2) A judge may impose the following conditions on pretrial release:

a. That the defendant stay away from the home, school, business or place of employment of the alleged victim;

b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;

c. That the defendant refrain from removing, damaging or injuring specifically identified property;

d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

(3) Should the defendant be mentally ill and dangerous to himself or others or a substance abuser and dangerous to himself or others, the provisions of Article 5 of Chapter 122C of the General Statutes shall apply.

(b) A defendant may be retained in custody not more than 48 hours from the time of arrest without a determination being made under this section by a judge. If a judge has not acted pursuant to this section within 48 hours of arrest, the magistrate shall act under the provisions of this section."

SECTION 2. The Attorney General's Office, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database shall also include the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the Attorney General's Office upon making a determination that a homicide meets the reporting system's criteria. The report shall be made in the format adopted by the Attorney General's Office. The Attorney General's Office shall begin collecting data required by this act for offenses occurring on or after July 1, 2007. The Attorney General's Office shall report to the Joint Legislative Committee on Domestic Violence, no later than February 1 of each year, with the data collected for the previous calendar year.

SECTION 3. Section 1 of this act becomes effective December 1, 2007, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of April, 2007.

Became law upon approval of the Governor at 11:26 a.m. on the 12th day of April, 2007.

Session Law 2007-15 **House Bill 46**

AN ACT TO DETERMINE WHETHER SECURITY GUIDELINES ARE NEEDED FOR DOMESTIC VIOLENCE SHELTERS OPERATED BY STATE-FUNDED AGENCIES AND TO PROVIDE, WHERE FEASIBLE, SECURE AREAS FOR

DOMESTIC VIOLENCE VICTIMS TO AWAIT HEARING OF THEIR COURT CASE AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Council for Women/Domestic Violence Commission (Council), in cooperation with the North Carolina Coalition Against Domestic Violence, shall review the guidelines that agencies must meet in order to receive State funds through the Council. The Council shall consider whether there should be specific guidelines designed to ensure safety at domestic violence shelters that are operated by State-funded agencies.

The Council shall report to the Joint Legislative Committee on Domestic Violence no later than May 1, 2008, on the results of the review.

SECTION 2. Where practical, upon request of a domestic violence victim, the clerk of Superior Court of any county shall coordinate with the county Sheriff to make available to the victim a secure area, segregated from the general population of the courtroom, to await hearing of their court case. The Clerk shall notify the presiding judge on the date of the hearing that the victim is present in a segregated location.

The Administrative Office of the Courts shall report to the Joint Legislative Committee on Domestic Violence no later than May 1, 2008, on the progress of providing the space in each courthouse.

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

In the General Assembly read three times and ratified this the 2nd day of April, 2007.

Became law upon approval of the Governor at 11:32 a.m. on the 12th day of April, 2007.

Session Law 2007-16 **Senate Bill 231**

AN ACT TO MAKE THE OFFICE OF TAX COLLECTOR IN TRANSYLVANIA COUNTY APPOINTIVE.

The General Assembly of North Carolina enacts:

SECTION 1. The provisions of Section 4 of Chapter 399, Public-Local Laws of 1941, that make elective the office of tax collector of Transylvania County are repealed.

SECTION 2. A Tax Collector shall be appointed by the Transylvania County Board of Commissioners under G.S. 105-349.

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

In the General Assembly read three times and ratified this the 19th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-17 **House Bill 180**

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWN OF FOUR OAKS.

The General Assembly of North Carolina enacts:

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

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

…

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

In the General Assembly read three times and ratified this the 19th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-18 **House Bill 181**

AN ACT TO AMEND THOSE GOLF CARTS THAT MAY BE REGULATED IN THE TOWNS OF BENSON, BLADENBORO, CHADBOURN, CLARKTON, ELIZABETHTOWN, ROSE HILL, AND TABOR CITY AND TO AUTHORIZE THE TOWN OF FOUR OAKS TO REGULATE GOLF CARTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2005-11 reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a town may, by ordinance, regulate the operation of ~~electric~~ golf carts on any public street or road within the town.

By ordinance, a town may require the registration of golf carts, charge a fee for the registration, specify the persons authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts."

SECTION 2. Section 3 of S.L. 2005-11, as amended by S.L. 2006-149 and S.L. 2006-152, reads as rewritten:

"**SECTION 3.** Section 1 of this act applies only to the Towns of Benson, Bladenboro, Chadbourn, Clarkton, Elizabethtown, Four Oaks, Rose Hill, and Tabor City. Section 2 of this act applies only to Moore County."

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

In the General Assembly read three times and ratified this the 19th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-19 **Senate Bill 496**

AN ACT TO AUTHORIZE PERQUIMANS COUNTY TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Perquimans County may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Perquimans County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Perquimans County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Perquimans County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Perquimans County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Perquimans County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling

of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Perquimans County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. Administrative provisions. – G.S. 153A-155(g) reads as rewritten:

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

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

In the General Assembly read three times and ratified this the 23rd day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-20 **House Bill 867**

AN ACT TO AUTHORIZE BOBBY S. STRICKLAND AND WIFE, PAULINE R. STRICKLAND, AND JOSEPH A. WARREN, JR., AND WIFE, LINDA B. WARREN TO CONVEY CERTAIN LANDS TO THE TOWN OF SALEMBURG.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 14-234, or any other like or similar law prohibiting such contract or agreement or making such action a crime, Bobby S. Strickland and wife, Pauline R. Strickland, and Joseph A. Warren, Jr. and wife, Linda B. Warren may convey to the Town of Salemburg property owned by them adjacent to South Main Street in the Town of Salemburg, described as Tract Four in that certain deed, dated May 5, 2006, and recorded in Book 1628, Page 345, in the Office of the Register of Deeds of Sampson County, as follows:

Commencing at railroad spike found in the centerline of intersection of Main and College Streets and running N. 49 degrees 54' 12"E, 39.80 feet to a right-of-way monument found in the edge of College and Main Streets, and running with the Eastern

edge of the right-of-way of Main Street, N. 10 degrees 01' 58" E., 179.89 feet to an iron rod found in sidewalk, the point of beginning, and running from said beginning point, so located, S. 80 degrees 22' 38" E., 96.62 feet to a ½" iron pipe found inside a 3" iron pipe, a joint corner with Richard Harold Keene (Deed Book 1023 at Page 44); thence with the Keene line, S. 11 degrees 37' 50" W., 59.86 feet to an iron rod found, also the Southwesternmost corner of the Keene lot; thence continuing S. 11 degrees 37' 50" W., 11.27 feet to an iron pipe set, a joint corner with Patricia Parker (Estate File No. 75 E 181); thence the Parker line along the party wall between buildings, N. 79 degrees 42' 51" E., 94.65 feet to a drill hole in the sidewalk of Main Street, which drill hole is located 79 degrees 42' 51" E., 24.13 feet from a Man Nail set (tie) in the centerline of Main Street; thence with the edge of the right-of-way of Main Street, N. 10 degrees 01' 58" E., 70.00 feet (passing over a drill hole in sidewalk at 10.00 feet) to the point of beginning, and containing 0.15 of an acre, more or less, as shown on that certain plat entitled "Boundary Survey of Robie & Garnie Butler Property for Bobby Sherrill Strickland & Others", prepared by Robert L. Johnson, Jr., PLS, under date of April 10, 2006, and recorded in Map Book 57 at Page 22, Sampson County Registry, reference being hereby made to said survey map for a more accurate description of said tract or parcel of land.

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

In the General Assembly read three times and ratified this the 23rd day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-21 **House Bill 484**

AN ACT AUTHORIZING AMERICAN RENAISSANCE MIDDLE SCHOOL AND AMERICAN RENAISSANCE CHARTER SCHOOL TO MERGE AND OPERATE AS A SINGLE CHARTER SCHOOL UNDER THE CHARTER OF AMERICAN RENAISSANCE MIDDLE SCHOOL AND TO DIRECT THE NEWLY CONSOLIDATED SCHOOL TO AMEND ITS CHARTER ACCORDINGLY AND TO DIRECT AMERICAN RENAISSANCE CHARTER SCHOOL TO RELINQUISH ITS CHARTER TO THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. The boards of directors of the American Renaissance Middle School and the American Renaissance Charter School may consolidate the schools into a single charter school under a joint board of directors with a grade configuration of kindergarten through eighth grade. All students enrolled in either school prior to the merger may remain in the newly consolidated school. The consolidation of the two schools under a single charter shall be completed by July 1, 2007.

The newly consolidated school may continue to operate as a charter school pursuant to Part 6A of Article 16 of Chapter 115C of the General Statutes under the charter of the American Renaissance Middle School and shall submit appropriate requests to the State Board of Education to amend its charter consistent with the General Statutes and the policies and rules of the State Board of Education. American Renaissance Charter School shall relinquish its charter to the State Board of Education by July 1, 2007.

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

In the General Assembly read three times and ratified this the 23rd day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-22 **House Bill 366**

AN ACT TO PERMIT THE TOWN OF CARY AND THE CITY OF HENDERSONVILLE TO DESIGNATE SOMEONE OTHER THAN THE CITY CLERK TO ISSUE CLOSING-OUT SALE LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2002-33, as rewritten by S.L. 2005-12, reads as rewritten:

"**SECTION 2.** This act applies to the Cities of ~~Charlotte and Greensboro~~ Charlotte, Greensboro, and Hendersonville, and the Town of Cary only."

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

In the General Assembly read three times and ratified this the 23rd day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-23 **Senate Bill 336**

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

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 923 of the 1985 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and Scope. – The Swain County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or ~~similar~~ accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious ~~organizations.~~organizations when furnished in furtherance of their nonprofit purpose.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Swain County Board of Commissioners may levy an additional room occupancy tax of up to one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Swain County may not levy a tax under this subsection unless it also levies the maximum tax authorized under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax~~

~~shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

(c) Administration. – ~~The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and Use of Tax Revenue. – Swain County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Swain Tourism Development Authority. The Authority ~~may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. No more than twenty- five percent (25%) of the funds remitted to the Authority may be used for salaries, wages, and administrative expenses.~~shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Swain County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) ~~As used in this subsection, "net proceeds" means gross~~Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance ~~officer.~~officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract

tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of Swain County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Swain County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

"**Sec. 2.** Tourism Development Authority. – (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control ~~Act and shall be composed of the following five members:~~

~~(1) Two tourist-oriented business members appointed by the Swain County Chamber of Commerce; and~~

~~(2) Three tourist-oriented business members appointed by the Swain County Board of Commissioners.~~

~~The Chamber shall designate one of its initial appointees to serve a two-year term and one to serve a three-year term. The board of commissioners shall designate one of its initial appointees to serve a one-year term, one to serve a two- year term, and one to serve a three-year term. Thereafter, all members shall serve three-year terms. Vacancies shall be filled by the appointing authority of the member who created the vacancy. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.~~

~~The members of the Authority shall elect from its membership a chairman.~~Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the ~~chairman~~ chair and shall adopt rules of procedure to govern its meetings. The finance officer of Swain County shall ~~serve~~ be the ex officio ~~as the~~ finance officer of the Authority.

(b) Duties. – The Authority shall ~~promote travel, tourism, and conventions in Swain County.~~ expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and

conventions in Swain County, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

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

"**Sec. 3.** This act is effective upon ratification."

SECTION 2. This act is effective when it becomes law. The Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

In the General Assembly read three times and ratified this the 25th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-24 **House Bill 502**

AN ACT TO REPEAL A BUDGET SPECIAL PROVISION CONCERNING HEALTH BENEFIT PLAN CO-PAYMENTS FOR CHIROPRACTIC SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3(b) of S.L. 2005-345 is repealed.

SECTION 2. This act becomes effective October 1, 2007, and applies to policies issued or renewed on or after that date. For the purposes of this act, renewal of a health benefit plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 18th day of April, 2007.

Became law upon approval of the Governor at 6:35 p.m. on the 25th day of April, 2007.

Session Law 2007-25 **Senate Bill 666**

AN ACT TO AUTHORIZE AN EXPANSION OF THE MEMBERSHIP OF THE NORTH CAROLINA INSTITUTE OF MEDICINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-470 reads as rewritten:

"§ **90-470. Institute of Medicine.**

The persons appointed under the provisions of this section are declared to be a body politic and corporate under the name and style of the North Carolina Institute of Medicine, and by that name may sue and be sued, make and use a corporate seal and alter the same at pleasure, contract and be contracted with, and shall have and enjoy all the rights and privileges necessary for the purposes of this section. The corporation shall have perpetual succession.

The purposes for which the corporation is organized are to:

(1) Be concerned with the health of the people of North Carolina;

(2) Monitor and study health matters;

(3) Respond authoritatively when found advisable;

(4) Respond to requests from outside sources for analysis and advice when this will aid in forming a basis for health policy decisions.

The 18 initial members of the North Carolina Institute of Medicine shall be appointed by the Governor.

The initial members are authorized, prior to expanding the membership, to establish bylaws, to procure facilities, employ a director and staff, to solicit, receive and administer funds in the name of the North Carolina Institute of Medicine, and carry out other activities necessary to fulfill the purposes of this section.

The members shall select with the approval of the Governor additional members, ~~so that the total membership will not exceed 100.~~ so that the total membership will not exceed a number determined by the Board of Directors in its bylaws. The membership should be distinguished and influential leaders from the major health professions, the hospital industry, the health insurance industry, State and county government and other political units, education, business and industry, the universities, and the university medical centers.

The North Carolina Institute of Medicine may receive and administer funds from private sources, foundations, State and county governments, federal agencies, and professional organizations.

The director and staff of the North Carolina Institute of Medicine should be chosen from those well established in the field of health promotion and medical care.

For the purposes of Chapter 55A of the General Statutes, the members appointed under this section shall be considered the initial board of directors.

The North Carolina Institute of Medicine is declared to be under the patronage and control of the State.

The General Assembly reserves the right to alter, amend, or repeal this section."

SECTION 2. This act is effective when it becomes law and applies to appointments made on or after this date.

In the General Assembly read three times and ratified this the 19th day of April, 2007.

Became law upon approval of the Governor at 6:38 p.m. on the 25th day of April, 2007.

Session Law 2007-26 **House Bill 326**

AN ACT REMOVING THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWN OF GREEN LEVEL AND CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE TOWN OF OAK ISLAND.

The General Assembly of North Carolina enacts:

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

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

…

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory,

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

SECTION 2.(a) G.S. 160A-58.1(b)(2) and G.S. 160A-58.1(b)(5) do not apply to the Town of Oak Island.

SECTION 2.(b) If the Town of Oak Island receives a petition for voluntary satellite annexation authorized by this section, it shall give the Town of St. James at least 30 days notice of the intent of the Town of Oak Island to consider the petition.

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

In the General Assembly read three times and ratified this the 26th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-27 **House Bill 895**

AN ACT TO CLARIFY THE APPLICATION OF THE INSURANCE LAWS TO MUTUAL AID ASSOCIATIONS SERVING PRESENT AND PAST MEMBERS OF THE ARMED FORCES AND SEA SERVICES OF THE UNITED STATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-24-185 reads as rewritten:

"§ **58-24-185. Exemption of certain ~~societies.~~ societies, orders, and associations.**

(a) Nothing contained in this Article shall be so construed as to affect or apply to:

(1) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;

(2) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

(3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than five hundred dollars ($500.00) or disability benefits of not more than three hundred fifty dollars ($350.00) to any person in any one year, or both;

(4) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than five hundred dollars ($500.00) or for disability benefits of not

more than three hundred fifty dollars ($350.00) to any one person in any one year, or both; or

(5) An association of local lodges of a society now doing business in this State which provides death benefits not exceeding five hundred dollars ($500.00) to any one person, provided, that the Commissioner may authorize the payment of death benefits not exceeding three thousand dollars ($3,000) to any one person, or may authorize disability benefits not exceeding three hundred dollars ($300.00), or may authorize both payments, in any one year to any one person.

(6) Any association, whether a fraternal benefit society or not, which was organized before 1880 and whose members are officers or enlisted, regular or reserve, active, retired, or honorably discharged members of the Armed Forces or Sea Services of the United States, and a principal purpose of which is to provide insurance and other benefits to its members and their dependents or beneficiaries.

(b) Any such society or association described in subsections (a)(3) or (a)(4) supra which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in subsection (a)(4) which has more than 1000 members, shall not be exempted from the provisions of this Article but shall comply with all requirements thereof.

(c) No society which, by the provisions of this section, is exempt from the requirements of this Article, except any society described in subsection (a)(2) supra, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(d) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this Article except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to ~~such~~ the society.

(e) The Commissioner may require from any society or association, by examination or otherwise, such information as will enable the Commissioner to determine whether ~~such~~ the society or association is exempt from the provisions of this Article.

(f) Societies, orders, or associations exempted under the provisions of this ~~section,~~ section shall also be exempt from all other provisions of the general insurance laws of this State."

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

In the General Assembly read three times and ratified this the 26th day of April, 2007.

Became law upon approval of the Governor at 11:34 a.m. on the 28th day of April, 2007.

Session Law 2007-28 **House Bill 406**

AN ACT TO ADOPT THE AYDEN COLLARD FESTIVAL AS THE OFFICIAL COLLARD FESTIVAL OF THE STATE OF NORTH CAROLINA.

Whereas, since 1975, the Town of Ayden has held an annual collard festival to bring the community and surrounding areas together in celebration of the Town's farming and agricultural heritage; and

Whereas, the Ayden Collard Festival has grown into a great marketing and promotional tool for the Ayden community, Pitt County, and eastern North Carolina; and

Whereas, the Ayden Collard Festival should be adopted as the official collard festival of the State of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-27. State Collard Festival.**

The Ayden Collard Festival is adopted as the official collard festival of the State of North Carolina."

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

In the General Assembly read three times and ratified this the 26th day of April, 2007.

Became law upon approval of the Governor at 11:36 a.m. on the 28th day of April, 2007.

Session Law 2007-29 **Senate Bill 184**

AN ACT TO ALLOW JUDICIAL OFFICERS TO LIST A BUSINESS ADDRESS ON A STATEMENT OF ECONOMIC INTEREST AND TO KEEP THEIR HOME ADDRESSES AND THE NAMES OF THEIR UNEMANCIPATED MINOR CHILDREN CONFIDENTIAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 138A-24(a) reads as rewritten:

"(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Commission and sworn to by the filing person. Answers must be provided to all questions. The form shall include the following information about the filing person and the filing person's immediate family:

(1) ~~The~~ Except as otherwise provided in this subdivision, the name, home address, occupation, employer, and business of the person. A judicial officer may use a business address instead of the home address on the form required in this subsection. The judicial officer may also use the initials instead of the name of any unemancipated child of the judicial officer who also resides in the household of the judicial officer. If the judicial officer provides a business address or provides the initials of an unemancipated child, the judicial officer shall concurrently provide a home address and the name of the unemancipated child to the Commission. The home address and the name of an unemancipated child provided by the judicial officer to the Commission shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential.

…."

SECTION 2. G.S. 138A-22(d) reads as rewritten:

"(d) A candidate for an office subject to this Article shall file the statement of economic interest at the same place and in the same manner as the notice of candidacy for that office is required to be filed under ~~G.S. 163-106,~~ G.S. 163-106 or G.S. 163-323 within 10 days of the filing deadline for the office the candidate seeks. A person who is nominated under G.S. 163-114 after the primary and before the general election, and a person who qualifies under G.S. 163-122 as an unaffiliated candidate in a general election, shall file a statement of economic interest with the county board of elections of each county in the senatorial or representative district. A person nominated under G.S. 163-114 shall file the statement within three days following the person's nomination, or not later than the day preceding the general election, whichever occurs first. A person seeking to qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest with the petition filed under that section. A person seeking to have write-in votes counted for the person in a general election shall file a statement of economic interest at the same time the candidate files a declaration of intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of economic interest at the same time that the president of the convention certifies the names of its candidates to the State Board of Elections under G.S. 163-98."

SECTION 3. This act becomes effective January 1, 2007.

In the General Assembly read three times and ratified this the 24th day of April, 2007.

Became law upon approval of the Governor at 11:38 a.m. on the 28th day of April, 2007.

Session Law 2007-30 **House Bill 697**

AN ACT AUTHORIZING THE SOCIAL SERVICES COMMISSION TO ADOPT RULES ESTABLISHING EDUCATIONAL REQUIREMENTS FOR STAFF EMPLOYED BY MATERNITY HOMES, CHILD PLACING AGENCIES, AND RESIDENTIAL CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-1(a) reads as rewritten:

"(a) The Department of Health and Human Services shall inspect and license all maternity homes established in the State under ~~such~~ rules ~~and regulations~~ adopted by ~~as~~ the Social Services ~~Commission may adopt.~~Commission. The Commission shall adopt rules establishing educational requirements for executive directors and staff employed in maternity homes."

SECTION 2. G.S. 131D-10.5 is amended by adding a new subdivision to read:

"§ **131D-10.5. Powers and duties of the Commission.**

In addition to other powers and duties prescribed by law, the Commission shall exercise the following powers and duties:

…

(7) Adopt rules establishing educational requirements for executive directors and staff employed by child placing agencies and residential child care facilities."

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

In the General Assembly read three times and ratified this the 25th day of April, 2007.

Became law upon approval of the Governor at 11:40 a.m. on the 28th day of April, 2007.

Session Law 2007-31 **House Bill 579**

AN ACT AUTHORIZING THE TOWN OF SPRING LAKE AND THE CITY OF GREENSBORO TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THEIR OVERGROWN VEGETATION ORDINANCES.

The General Assembly of North Carolina enacts:

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

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

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

In the General Assembly read three times and ratified this the 30th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-32 **House Bill 303**

AN ACT TO ALLOW THE CITY OF NEW BERN TO REQUIRE A PERMIT PRIOR TO DEMOLITION OF A CONTRIBUTING STRUCTURE WITHIN A LOCALLY DESIGNATED HISTORIC DISTRICT.

Whereas, New Bern was North Carolina's first permanent State capital; and

Whereas, New Bern is the home of the restored Tryon Palace Complex, where legislators first governed; and

Whereas, New Bern contains over 1,100 original 18th, 19th, and early 20th century contributing structures which complement and enhance the Palace Complex and the historic character and integrity of the City; and

Whereas, historic preservation contributes to the economic, social, and cultural well-being of New Bern and the State of North Carolina; and

Whereas, protecting New Bern from the loss of its historic architectural resources is of statewide importance; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding the provisions of G.S. 160A-400.14, a municipality may adopt an ordinance providing that no contributing structure within a locally designated historic district in the municipality may be demolished without a permit.

SECTION 1.(b) The municipality may adopt, modify, and revise such ordinances as are necessary to implement this section and to further its intent.

SECTION 2. This act applies to the City of New Bern only.

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

In the General Assembly read three times and ratified this the 30th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-33 **Senate Bill 535**

AN ACT RELATING TO MECKLENBURG COUNTY'S AUTHORITY TO SELL CERTAIN PROPERTY BY PRIVATE NEGOTIATED SALE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2000-65, as reenacted by Section 1 of S.L. 2003-49, and as rewritten by Section 2 of S.L. 2005-158, reads as rewritten:

"**Section 2**. This act shall apply to Mecklenburg County only and only with respect to ~~the following parcels of land, all of which are owned by Mecklenburg County: (i) parcels with frontage on North College Street that are Mecklenburg County Tax Parcels (as of January 1, 2000) 080-031-01, 080-032-04, 080-032-05, 080-041-01, and 080-041-02; (ii) Mecklenburg County Tax Parcels (as of January 1, 2005) 073-161-01, 073-161-03, 073-161-06, 073-162-02, and 073-162-01; (iii) that portion of Mecklenburg County Tax Parcel 073-161-04 (as of January 1, 2005) which is immediately adjacent to and parallel to West Second Street, approximately 100 feet wide and running from South Mint Street to South Graham Street; (iv) that portion of Mecklenburg County Tax Parcel 073-112-05 (as of January 1, 2005) which is occupied by and including the old Virginia Paper Company Building, and such areas immediately adjacent to the old Virginia Paper Company Building as might be necessary for ingress, egress, and regress to and from said Building and such other areas immediately adjacent to said Building as might be necessary for uses such as outdoor patios or terraces, or other outdoor uses which are compatible with and accessory to the interior uses of the adaptive re-use of the old Virginia Paper Company Building; and (v) subsurface portions of Mecklenburg County Tax Parcels 073-111-04 and 073-112-05 (as of January 1, 2005) for parking uses.~~ property owned by Mecklenburg County."

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

In the General Assembly read three times and ratified this the 30th day of April, 2007.

Became law on the date it was ratified.

Session Law 2007-34 **Senate Bill 642**

AN ACT TO REMOVE DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF MCADENVILLE AND ANNEX IT TO THE TOWN OF CRAMERTON.

Whereas, the Board of Commissioners of the Town of Cramerton by resolution on March 6, 2007, requested that a total of 22.656 acres of property be deannexed from the Town of McAdenville and annexed to the Town of Cramerton; and

Whereas, the Board of Commissioners of the Town of McAdenville concurred in this request by resolution adopted March 12, 2007; and

Whereas, Gaston County Parcel Number 18050 is 44.85 acres, with 16.525 acres currently located within the corporate limits of the Town of McAdenville, while Gaston County Parcel Number 194769 is 62.61 acres with 6.131 acres currently located within the corporate limits of the Town of McAdenville; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The portion of Gaston County Parcel #185050 currently located within the Town of McAdenville, consisting of approximately 16.525 acres, is removed from the corporate limits of the Town of McAdenville and is added to the corporate limits of the Town of Cramerton.

SECTION 2. The portion of Gaston County Parcel #194769 currently located within the Town of McAdenville, consisting of approximately 6.131 acres, is removed from the corporate limits of the Town of McAdenville and is added to the corporate limits of the Town of Cramerton.

SECTION 3. This act has no effect upon the validity of any liens of the Town of McAdenville for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of McAdenville.

SECTION 4. This act becomes effective June 30, 2007.

In the General Assembly read three times and ratified this the 2nd day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-35 **House Bill 506**

AN ACT TO AUTHORIZE WESTERN PIEDMONT COMMUNITY COLLEGE TO ENTER INTO AN AGREEMENT WITH BURKE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding the provisions of G.S. 115D-15.1(c), G.S. 143-341(3)a., or any other provision of law pertaining to capital improvements, Western Piedmont Community College may enter into an agreement with Burke County to jointly renovate a building owned by Burke County that is located at 2128 South Sterling Street in Morganton. Western Piedmont Community College may use State grant funds for the renovation of the building. The renovated facility shall be known as the Foothills Allied Health and Sciences Higher Education Center.

Burke County shall lease a portion of the facility consisting of college classrooms, office space, and laboratories to Western Piedmont Community College for a period of 40 years. The remainder of the facility consisting of multipurpose space shall be maintained and operated by Burke County.

If at any time Burke County terminates the lease, the county shall reimburse to Western Piedmont Community College a prorated amount of the State grant funds used for the renovation.

SECTION 1.(b) Except for G.S. 143-128.2 and G.S. 143-128.3, the provisions of Article 8 of Chapter 143 of the General Statutes shall not apply to the renovation of the facility.

SECTION 2. This act is effective when it becomes law and expires December 31, 2011.

In the General Assembly read three times and ratified this the 3rd day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-36 **Senate Bill 258**

AN ACT ADOPTING THE SALUTE TO THE FLAG OF NORTH CAROLINA AS THE OFFICIAL PLEDGE TO THE STATE FLAG.

Whereas, an official State flag was first recognized in 1861, with a new design adopted in 1885; and

Whereas, in 1907 the General Assembly enacted legislation requiring the flag to be displayed at all State institutions, public buildings, and courthouses; and

Whereas, many organizations and groups use the salute to the North Carolina flag at their meetings and conventions; and

Whereas, there is no record of an official pledge to the State flag having been adopted; and

Whereas, for the purpose of promoting greater loyalty and respect to the State of North Carolina and inasmuch as a special act of the legislature adopted an emblem of our government known as the North Carolina flag; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 144 of the General Statutes is amended by adding a new section to read:

"**§ 144-8. State salute to the North Carolina flag.**

The phrase "I salute the flag of North Carolina and pledge to the Old North State love, loyalty, and faith." is adopted as the official salute to the North Carolina flag."

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

In the General Assembly read three times and ratified this the 25th day of April, 2007.

Became law upon approval of the Governor at 9:48 p.m. on the 4th day of May, 2007.

Session Law 2007-37 **Senate Bill 149**

AN ACT REPEALING THE EXPIRATION OF AN ACT AUTHORIZING THE TOWN OF APEX TO USE THE PROCEDURE AND AUTHORITY OF CHAPTER 136 OF THE NORTH CAROLINA GENERAL STATUTES IN CONDEMNATION PROCEEDINGS CONCERNING PUBLIC STREETS AND ROADS, AND ALLOWING USE FOR ELECTRIC FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2003-88 reads as rewritten:

"**SECTION 3.** This act is effective when it becomes law. ~~Section 1 of this act expires on December 31, 2008, but civil actions or special proceedings instituted pursuant to that section on or before December 31, 2008, shall be completed under the provisions of that section as if it had not expired.~~"

SECTION 2. Section 6.5 of the Charter of the Town of Apex, being Chapter 356 of the 1985 Session Laws, as added by Chapter 70 of the 1987 Session Laws, and as rewritten by Section 1 of S.L. 2003-88, reads as rewritten:

"Sec. 6.5. Additional Eminent Domain Powers. Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property interests (including, without limitation, fee simple title, rights-of-way, and

easements) to be used for (i) water lines and treatment ~~facilities and~~ facilities, (ii) sewer lines and treatment facilities, (iii) electric distribution and transmission facilities, and (iv) opening, widening, extending, or improving public streets and roads, the town may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'Town Manager', and whenever therein the word 'highway' appears, it is deemed to include 'public works' in accordance with this section, provided further that nothing herein shall be construed to enlarge the power of the town to condemn property already devoted to public use. Provided further, just compensation for the acquisition of fee simple title or a perpetual easement pursuant to this section to be used for street or road right-of-way shall be no less than (i) one dollar ($1.00) per square foot of real property taken, or (ii) the prorated ad valorem tax value of the parent tract, whichever is less. Just compensation for the acquisition of fee simple title or a perpetual easement pursuant to this section to be used for electric distribution and transmission facilities shall be no less than (i) fifty cents (50¢) per square foot of real property taken, or (ii) one-half the prorated ad valorem tax value of the parent tract, whichever is less. The powers granted by this section are in addition to and supplementary to those powers granted by any local or general law."

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

In the General Assembly read three times and ratified this the 8th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-38 **House Bill 189**

AN ACT PROVIDING THAT A BOARD OF COUNTY COMMISSIONERS MAY AUTHORIZE THE GOVERNING BODY OF A CITY TO AUTHORIZE THE USE OF PYROTECHNICS WITHIN THE CORPORATE LIMITS OF THE CITY AND ISSUE PERMITS FOR THE USE OF PYROTECHNICS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-410(a) reads as rewritten:

"(a) It shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use or cause to be discharged any pyrotechnics of any description whatsoever within the State of North Carolina: provided, however, that it shall be permissible for pyrotechnics to be exhibited, used or discharged at concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations: provided, further, that the use of said pyrotechnics in connection with concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, shall be under supervision of experts who have previously secured written authority from the board of county commissioners of the ~~county~~county, or the city if authorized under G.S. 14-413(a1), in which said pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required, however, for a concert or public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill, but such exhibition, use, or discharge of pyrotechnics shall be under supervision of experts

who have previously secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill. Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business. The requirements of G.S. 14-413(b) and G.S. 14-413(c) apply to this section."

SECTION 2. G.S. 14-413 reads as rewritten:

"§ **14-413. Permits for use at public exhibitions.**

(a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any ~~county~~county, or the governing board of a city authorized pursuant to subsection (a1) of this section, may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public ~~exhibitions,~~celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

(a1) For the purpose of enforcing the provisions of this Article, a board of county commissioners may authorize the governing body of any city in the county to issue permits pursuant to the provisions of this Article for pyrotechnics to be exhibited, used, or discharged within the corporate limits of the city for use in connection with the conduct of concerts or public exhibitions. The board of county commissioners shall adopt a resolution granting the authority to the city, and it shall remain in effect until withdrawn by the board of county commissioners adopting a subsequent resolution withdrawing the authority. If a city lies in more than one county, the board of county commissioners of each county in which the city lies must adopt an authorizing resolution. If any county in which the city lies withdraws the authority of the city to issue permits for the use of pyrotechnics, the authority of the city to issue permits for the use of pyrotechnics will end, and all counties within which the city lies must resume their authority to issue the permits.

(b) For any indoor use of pyrotechnics at a concert or public exhibition, the board of commissioners or the governing body of an authorized city may not issue any permit unless the local fire marshal or the State Fire Marshal (or in the case of The University of North Carolina or the University of North Carolina at Chapel Hill it may not authorize such concert or public exhibition unless the State Fire Marshal) has certified that:

(1) Adequate fire suppression will be used at the site.
(2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.
(3) Adequate egress from the building is available based on the size of the expected crowd.

(c) The requirements of subsection (b) of this section also apply to any city authorized to grant pyrotechnic permits by local act and to the officer delegated the power to grant such permits by local act."

SECTION 3. Any local act granting authority to a city to grant permission or a permit for pyrotechnics to be exhibited, used or discharged at concerts or public exhibitions pursuant to G.S. 14-410 or G.S.14-413 is repealed one year from the effective date of this act.

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

In the General Assembly read three times and ratified this the 1st day of May, 2007.

Became law upon approval of the Governor at 5:35 p.m. on the 11th day of May, 2007.

Session Law 2007-39 **House Bill 424**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY RESPITE CARE AND TO RECOMMEND WAYS TO IMPROVE THE CURRENT RESPITE CARE DELIVERY SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services, Division of Facility Services, Division of Medical Assistance, and the Division of Aging and Adult Services, shall study the availability and delivery of respite care which provides temporary relief for family members and others who care for individuals with disabilities, chronic or terminal illnesses, dementia, or the elderly. The study shall examine the following:

(1) The need and availability of respite care in North Carolina.
(2) The delivery and licensing of respite care in other states and possible models for North Carolina.
(3) The application process for a grant under the Lifespan Respite Care Act of 2006, 42 U.S.C.
(4) The need for separate statutory language pertaining to respite care.
(5) The need, proposed structure, and development timeline for a separate licensure category for respite care.
(6) The development of a Medicaid waiver covering a proposed new licensure category for respite care.

SECTION 1.(b) In response to the study authorized in this section, the Department of Health and Human Services shall present findings and recommendations, including any proposed statutory changes and new licensure categories, to the Study Commission on Aging on or before March 1, 2008.

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

In the General Assembly read three times and ratified this the 2nd day of May, 2007.

Became law upon approval of the Governor at 5:38 p.m. on the 11th day of May, 2007.

Session Law 2007-40 **House Bill 407**

AN ACT EXTENDING THE EXTRATERRITORIAL JURISDICTION OF THE TOWN OF MAGNOLIA.

The General Assembly of North Carolina enacts:

SECTION 1. In addition to the authority provided in G.S. 160A-360, the Town of Magnolia may exercise the powers granted in Article 19 of Chapter 160A of the General Statutes in an area beginning at the Town corporate limits at State Highway 903 North, extending one-half mile on each side of the centerline of State Highway 903 to the Interstate Highway 40 southern right-of-way boundary, and extending one-half

mile on each side of the center line of State Highway 903 and State Highway 24 from the Interstate Highway 40 southern right-of-way to the midpoint of State Secondary Road 1923 and State Secondary Road 2029 northeast of Interstate Highway 40.

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

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

In the General Assembly read three times and ratified this the 14th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-41 **Senate Bill 22**

AN ACT TO PROVIDE FOR REGULAR MUNICIPAL ELECTIONS IN THE CITY OF ARCHDALE TO BE CONDUCTED IN EVEN-NUMBERED YEARS, TO EXTEND THE TERMS OF CURRENT OFFICERS TO THE NEW ELECTION SCHEDULE, AND TO PROVIDE THAT ONE COUNCIL MEMBER SHALL BE ELECTED FROM EACH OF FOUR WARDS AND TWO AT LARGE.

The General Assembly of North Carolina enacts:

SECTION 1. Regular municipal elections shall be held in the City of Archdale biennially in even-numbered years, but shall otherwise be conducted in accordance with general law governing municipal elections. The mayor and members of the council shall be elected by the nonpartisan plurality election method provided for in G.S. 163-292.

SECTION 2. No regular election shall be conducted in the City of Archdale in 2007. The term of the mayor elected in 2005 is extended until the organizational meeting after the 2008 regular municipal election held in accordance with Section 1 of this act. The terms of the council members elected in 2003 are extended until the organizational meeting after the 2008 regular municipal election held in accordance with Section 1 of this act. The terms of the council members elected in 2005 are extended until the organizational meeting after the 2010 regular municipal election held in accordance with Section 1 of this act.

SECTION 3. The Archdale City Council shall consist of six members. The city is divided into four single-member electoral districts set out in Section 6 of this act, each ward electing one member. The districts are such that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large; and candidates shall reside in and represent the districts according to the apportionment plan adopted, but all candidates shall be elected by all the qualified voters of the city. Additionally, two members shall be elected at large. Elections are conducted on a nonpartisan plurality basis, with the results determined under G.S. 163-292.

SECTION 4. In 2008 and quadrennially thereafter, three council members shall be elected, one from Ward Two, one from Ward Three, and one at large. In 2010 and quadrennially thereafter, three council members shall be elected, one from Ward One, one from Ward Four, and one at large.

SECTION 5. Until elections are held as provided by this act, the following persons shall serve on the council until the organizational meeting in the year provided, all of whom were serving on the council at the time of enactment of this act:

(1) From Ward One: Larry Warlick to serve until 2010.

(2) From Ward Two: Roger Blackwell to serve until 2008.

(3) From Ward Three: Robert (Trey) Gray to serve until 2008.
(4) From Ward Four: Lewis Dorsett to serve until 2010.
(5) At large: Tim Williams to serve until 2008.
(6) At large: Eddie Causey to serve until 2010.

SECTION 6. The boundaries of the wards are as follows:

Ward 1

Beginning at the centerline of Archdale Road and the Randolph/Guilford County line and continuing southeast along the centerline of Archdale Road approximately 2.52 miles to the intersection of Trinity Road. Then continuing west along the southern right-of-way of Trinity Road approximately 115 feet. Then continuing south along the eastern boundary of Oak Forest subdivision approximately 1450 feet. Then continuing east approximately 260 feet. Then continuing south approximately 40 feet. Then continuing east approximately 192 feet. Then continuing northwest approximately 60 feet. Then continuing north approximately 88 feet. Then continuing east approximately 212 feet. Then continuing south approximately 275 feet. Then continuing west approximately 350 feet. Then continuing south approximately 15 feet. Then continuing east approximately 550 feet. Then continuing south along the eastern boundary of Oak Forest subdivision approximately 1822 feet. Then continuing east 180 feet to the western right-of-way of Deaton Road. Then continuing southwest along the western right-of-way of Deaton Road approximately 1090 feet. Then continuing north along the southern boundary of Oak Forest subdivision approximately 420 feet. Then continuing west along the southern boundary of Oak Forest subdivision approximately 768 feet. Then continuing south along the southern boundary of Oak Forest subdivision approximately 522 feet. Then continuing southeast approximately 390 feet to the western right-of-way of Deaton Road. Then continuing southwest along the western right-of-way of Deaton Road approximately 260 feet. Then continuing north approximately 95 feet. Then continuing northwest approximately 440 feet. Then continuing west along the southern boundary of Oak Forest subdivision approximately 260 feet. Then continuing north along the western boundary of Oak Forest subdivision approximately 548 feet. Then continuing east along the western boundary of Oak Forest subdivision approximately 55 feet. Then continuing north along the western boundary of the Oak Forest subdivision approximately 1245 feet. Then continuing east along the western boundary of Oak Forest subdivision approximately 175 feet. Then continuing north along the western boundary of Oak Forest subdivision approximately 1300 feet. Then continuing west approximately 245 feet. Then continuing south approximately 265 feet. Then continuing west approximately 242 feet. Then continuing north approximately 1315 feet. Then continuing east approximately 265 feet. Then continuing north approximately 490 feet to the northern right-of-way of Trinity Road. Then continuing east along the northern right-of-way of Trinity Road approximately 135 feet to the western right-of-way of Norfolk Southern Railroad. Then continuing northwest along the western right-of-way of Norfolk Southern Railroad approximately 1210 feet. Then continuing north along the western right-of-way of Norfolk Southern Railroad approximately 55 feet. Then continuing northwest along the western boundary of the Norfolk Southern right-of-way approximately 1.43 miles. Then continuing west approximately 765 feet to the eastern right-of-way of NC 62. Then continuing north along the western right-of-way of NC 62 approximately 125 feet to the southern right-of-way of Trinity Road. Then continuing along the southern right-of-way of Trinity Road approximately 545 feet to the western right-of-way of the Norfolk Southern

Railroad. Then continuing northwest along the western right-of-way of Norfolk Southern Railroad approximately 1280 feet. Then continuing southwest approximately 220 feet. Then continuing west approximately 120 feet. Then continuing northeast approximately 305 feet to the western right-of-way of Norfolk Southern Railroad. Then continuing northwest along the western right-of-way of Norfolk Southern Railroad approximately 1115 feet. Then continuing south approximately 1065 feet. Then continuing west approximately 130 feet. Then continuing south approximately 283 feet. Then continuing west approximately 1910 feet. Then continuing north approximately 270 feet. Then continuing east approximately 250 feet. Then continuing north approximately 1325 feet. Then continuing west approximately 195 feet to the eastern right-of-way of Oak Knoll Drive. Then continuing north along the eastern right-of-way of Oak Knoll Drive approximately 200 feet. Then continuing west approximately 260 feet. Then continuing south approximately 30 feet. Then continuing west approximately 180 feet to the eastern right-of-way of Surrett Drive. Then continuing south along the eastern right-of-way of Surrett Drive approximately 1785 feet. Then continuing west along the southern boundary of Kingsfield Forest subdivision approximately 1870 feet. Then continuing north along the western boundary of Kingsfield Forest Subdivision approximately 910 feet. Then continuing west approximately 660 feet. Then continuing north approximately 430 feet. Then continuing east approximately 575 feet. Then continuing north approximately 430 feet. Then continuing west approximately 1335 feet to the eastern right-of-way of Uwharrie Drive. Then continuing north along the eastern right-of-way of Uwharrie Road approximately 410 feet. Then continuing west along the northern right-of-way of Circle Drive approximately 460 feet. Then continuing north along the eastern right-of-way of Circle Drive approximately 545 feet. Then continuing west approximately 292 feet. Then continuing north approximately 185 feet. Then continuing east approximately 292 feet to the eastern right-of-way of Circle Drive. Then continuing north along the eastern right-of-way of Circle Drive approximately 525 feet. Then continuing east approximately 195 feet. Then continuing north approximately 715 feet to the northern right-of-way of Circle Drive Extension. Then continuing west along the northern right-of-way of Circle Drive Extension approximately 340 feet. Then continuing north approximately 200 feet. Then continuing east approximately 125 feet. Then continuing north approximately 230 feet. Then continuing west approximately 1565 feet. Then continuing north approximately 453 feet. Then continuing west approximately 102 feet. Then continuing north approximately 377 feet to Blazing Star Drive. Then continuing east along Blazing Star Drive approximately 370 feet to the western right-of-way of Old Mendenhall Road. Then continuing south along the western right-of-way of Old Mendenhall Road approximately 355 feet. Then continuing east approximately 1390 feet. Then continuing northwest approximately 475 feet. Then continuing east approximately 700 feet to the eastern right-of-way of Uwharrie Road. Then continuing north along the eastern right-of-way of Uwharrie Road approximately 382 feet to the Randolph/Guilford County line. Then continuing east along the Randolph/Guilford County line approximately 1050 feet. Then continuing south approximately 1660 feet. Then continuing east approximately 67 feet. Then continuing south approximately 330 feet. Then continuing east approximately 375 feet to the eastern right-of-way of Shore Street. Then continuing north along the eastern right-of-way of Shore Street approximately 330 feet. Then continuing east approximately 355 feet. Then continuing south approximately 887 feet. Then continuing east approximately 690 feet. Then continuing north approximately 700 feet. Then continuing east approximately 695 feet to the eastern right-of-way of Surrett Drive. Then continuing

north along the eastern right-of-way of Surrett Drive approximately 1465 feet. Then continuing east approximately 120 feet. Then continuing north approximately 205 feet to the Randolph/Guilford County line. Then continuing east along the Randolph/Guilford County line approximately 1.15 miles to the centerline of Archdale Road. Being a total of 1811.7 acres.

Ward 2

Beginning at the centerline of Archdale Road and the Randolph/Guilford County line and continuing south along Archdale Road for approximately 2.73 miles to the eastern boundary of the Winchester subdivision. Then continuing north approximately 350 feet. Then continuing east approximately 1210 feet to Springwood Lane. Then continuing south approximately 440 feet to Archdale Road. Then continuing east approximately 150 feet. Then continuing north approximately 440 feet along the boundary of the Robin's Nest subdivision. Then continuing east approximately 1550 feet. Then continuing south approximately 277 feet to the Norfolk Southern Railroad right-of-way. Then continuing east approximately 200 feet. Then continuing south approximately 614 feet. Then continuing west approximately 300 feet. Then continuing south approximately 277 feet. Then continuing east approximately 1490 feet along the south boundary of Ridgecreek subdivision. Then continuing north along the eastern boundaries of the Ridgecreek and Roxanna Hills subdivisions approximately 2940 feet. Then continuing east approximately 655 feet. Then continuing north approximately 582 feet. Then continuing west approximately 91 feet. Then continuing north approximately 165 feet. Then continuing east approximately 95 feet. Then continuing north approximately 300 feet to the centerline of Main Street. Then continuing northwest along Main Street approximately 2.81 miles to the Randolph/Guilford County line. Then continuing west approximately 1053 feet to the centerline of Archdale Road. Being a total of 1356.7 acres.

Ward 3

Beginning at the centerline of Main Street and the intersection of the centerline of Interstate 85 and continuing northwest along Main Street for approximately 1.6 miles to the Randolph/Guilford County line. Then continuing north approximately 85 feet. Then continuing northeast approximately 430 feet. Then continuing east 195 feet. Then continuing north along the western right-of-way of Baker Road for approximately 915 feet. Then continuing west for approximately 760 feet. Then continuing north for approximately 240 feet. Then continuing east for approximately 572 feet. Then continuing north for approximately 220 feet. Then continuing east for approximately 47 feet. Then continuing north approximately 105 feet. Then continuing east approximately 215 feet. Then continuing north approximately 255 feet. Then continuing east approximately 700 feet. Then continuing south approximately 840 feet. Then continuing southeast approximately 710 feet. Then continuing southwest for approximately 183 feet. Then continuing southeast for approximately 100 feet. Then continuing northeast for approximately 185 feet. Then continuing southeast for approximately 90 feet. Then continuing south for approximately 370 feet. Then continuing west for approximately 1060 feet. Then continuing south approximately 220 feet to the Randolph/Guilford County line. Then continuing east along the Randolph/Guilford County line approximately 1962 feet. Then continuing north approximately 865 feet. Then continuing southeast approximately 412 feet. Then continuing east approximately 90 feet. Then continuing northeast approximately 210 feet. Then continuing southeast

approximately 60 feet. Then continuing southwest approximately 215 feet. Then continuing southeast approximately 25 feet. Then continuing west approximately 95 feet. Then continuing southeast approximately 80 feet. Then continuing southwest approximately 138 feet. Then continuing southeast approximately 415 feet to the Randolph/Guilford County line. Then continuing east along the Randolph/Guilford County line approximately 1820 feet. Then continuing north approximately 565 feet. Then continuing east approximately 215 feet to the eastern right-of-way of Ashland Street. Then continuing south approximately 185 feet. Then continuing east approximately 200 feet. Then continuing south approximately 385 feet to the Randolph/Guilford County line. Then continuing east along the Randolph/Guilford County line approximately 1242 feet. Then continuing north approximately 660 feet. Then continuing east approximately 685 feet. Then continuing north approximately 1335 feet to the southern right-of-way of NC 62. Then continuing northeast along the southern right-of-way of NC 62 approximately 380 feet. Then continuing north approximately 300 feet. Then continuing east approximately 150 feet. Then continuing north to the western right-of-way of East Fairfield Road approximately 142 feet. Then continuing southeast along the western right-of-way of East Fairfield Road approximately 400 feet to the intersection of NC 62. Then continuing north approximately 2066 feet. Then continuing east approximately 210 feet. Then continuing north approximately 1840 feet. Then continuing east approximately 556 feet. Then continuing southeast approximately 1685 feet. Then continuing east approximately 1190 feet to the western right-of-way of Kersey Valley Road. Then continuing south along the western right-of-way boundary of Kersey Valley Road approximately 1442 feet. Then continuing east approximately 765 feet. Then continuing south approximately 342 feet. Then continuing west along the western right-of-way of Interstate 85 approximately 795 feet. Then continuing south along approximately 305 feet to the intersection of NC 62. Then continuing along the centerline of Interstate 85 approximately 1.67 miles to the intersection and centerline of Main Street. Being a total of 983.3 acres.

Ward 4

Beginning at the centerline of Main Street and the intersection of the centerline of Interstate 85 and continuing north approximately 4560 feet. Then continuing east approximately 1860 feet. Then continuing north approximately 655 feet. Then continuing west approximately 1295 feet to the centerline of Interstate 85. Then continuing northeast approximately 3745 feet to the intersection of NC 62. Then continuing east along the centerline of NC 62 approximately 500 feet. Then continuing northeast along the eastern right-of-way of Interstate 85 approximately 720 feet. Then continuing south approximately 375 feet. Then continuing east approximately 65 feet. Then continuing south along the western right-of-way of Weant Road approximately 1285 feet. Then continuing northwest along the eastern boundary of Old Weant Road approximately 420 feet. Then continuing west approximately 65 feet. Then continuing south approximately 412 feet. Then continuing west approximately 355 feet. Then continuing south approximately 1695 feet. Then continuing east approximately 505 feet to the western right-of-way of Weant Road. Then continuing south approximately 240 feet. Then continuing east approximately 640 feet. Then continuing north approximately 150 feet to the right-of-way of Chanterelle Drive. Then continuing east approximately 965 feet. Then continuing south approximately 225 feet. Then continuing east approximately 170 feet. Then continuing south approximately 792 feet. Then continuing

west to the western right-of-way of Weant Road approximately 1470 feet. Then continuing north along the western right-of-way of Weant Road approximately 860 feet. Then continuing west to the eastern right-of-way of Hope Valley Drive approximately 2255 feet. Then continuing south along the eastern boundary of the Sterling Ridge subdivision approximately 640 feet. Then continuing west along the southern boundary of Sterling Ridge subdivision approximately 1400 feet. Then continuing south approximately 1065 feet to the southern right-of-way of Huff Road. Then continuing east along the southern right-of-way of Huff Road approximately 3212 feet. Then continuing north approximately 1153 feet. Then continuing east approximately 185 feet. Then continuing northeast approximately 210 feet. Then continuing north approximately 85 feet. Then continuing west approximately 48 feet. Then continuing north approximately 268 feet. Then continuing east approximately 322 feet. Then continuing south approximately 815 feet. Then continuing west approximately 200 feet. Then continuing south along the eastern right-of-way of Allendale Drive approximately 220 feet. Then continuing east approximately 200 feet. Then continuing south approximately 220 feet. Then continuing southwest approximately 230 feet. Then continuing west approximately 400 feet to the eastern right-of-way of Allendale Drive. Then continuing south along the eastern right-of-way of Allendale Drive approximately 200 feet to the northern right-of-way of Huff Road. Then continuing west along the northern right-of-way of Huff Road approximately 200 feet. Then continuing south approximately 220 feet. Then continuing west approximately 130 feet. Then continuing south approximately 430 feet. Then continuing west approximately 65 feet. Then continuing north approximately 100 feet. Then continuing southwest approximately 120 feet. Then continuing south approximately 50 feet. Then continuing west along the boundary of the Bradford Downs subdivision approximately 145 feet. Then continuing south along the eastern boundary of Bradford Downs subdivision approximately 1385 feet. Then continuing west along the Bradford Downs subdivision boundary approximately 325 feet. Then continuing south along the Bradford Downs subdivision boundary approximately 195 feet. Then continuing east along the Bradford Downs subdivision boundary approximately 365 feet. Then continuing south along the eastern boundary of Bradford Downs subdivision approximately 912 feet to the northern right-of-way of Wood Avenue. Then continuing east along the northern right-of-way of Wood Avenue approximately 2400 feet. Then continuing north approximately 405 feet. Then continuing east approximately 753 feet to the western right-of-way of Weant Road. Then continuing south along the western right-of-way of Weant Road approximately 150 feet. Then continuing west approximately 210 feet. Then continuing south approximately 510 feet. Then continuing east along the northern boundary of Rush Hollow subdivision approximately 650 feet. Then continuing south along the eastern boundary of Rush Hollow subdivision approximately 1575 feet. Then continuing west along the Rush Hollow subdivision boundary approximately 250 feet. Then continuing south along the eastern right-of-way of Weant Road approximately 100 feet. Then continuing east along the Rush Hollow subdivision boundary approximately 250 feet. Then continuing south along the Rush Hollow subdivision boundary approximately 250 feet. Then continuing west along the Rush Hollow subdivision boundary approximately 860 feet. Then continuing south along the Rush Hollow subdivision boundary approximately 400 feet. Then continuing east approximately 230 feet. Then continuing southwest along the northern right-of-way of Suits Road approximately 1910 feet to the centerline of Main Street. Then continuing northwest approximately 380 feet. Then continuing northeast approximately 640 feet. Then

continuing northwest approximately 90 feet. Then continuing southwest approximately 200 feet. Then continuing northwest approximately 320 feet. Then continuing southwest approximately 490 feet to the centerline of Main Street. Then continuing northwest approximately 350 feet. Then continuing along the eastern right-of-way of Mose Drive approximately 440 feet. Then continuing northwest approximately 230 feet. Then continuing southwest approximately 440 feet to the centerline of Main Street. Then continuing northwest approximately 340 feet. Then continuing northeast approximately 185 feet. Then continuing southeast approximately 150 feet. Then continuing north approximately 380 feet. Then continuing northwest approximately 135 feet. Then continuing southwest approximately 500 feet to the centerline of Main Street. Then continuing northwest along the centerline of Main Street approximately 1.21 miles and intersecting with the centerline of Interstate 85. Being a total of 934.3 acres.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-42 **House Bill 1145**

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO LOITER IN THE TOWN OF COLUMBIA AND IN THE CITY OF BREVARD FOR THE PURPOSE OF VIOLATING THE CONTROLLED SUBSTANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definition. – The following definitions apply in this section:

(1) Public place. – Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the Town of Columbia and the City of Brevard.

(2) Quasi-public place. – Any ground abutting a public place.

SECTION 1.(b) Offense. – It is unlawful for a person to remain or wander about in a public place or quasi-public place and do any of the following for the purpose of violating any provision of Article 5 of Chapter 90 of the General Statutes:

(1) Repeatedly beckon to, stop, or attempt to stop passersby, or repeatedly attempt to engage passersby in conversation.

(2) Repeatedly stop or attempt to stop motor vehicles.

(3) Repeatedly interfere with the free passage of other persons.

(4) Repeatedly pass to or receive from passersby, whether on foot or in a vehicle, money, or objects.

SECTION 1.(c) Penalty. – Any person who violates this section is guilty of a Class 1 misdemeanor.

SECTION 2. This act applies only to the Town of Columbia and the City of Brevard.

SECTION 3. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 14th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-43 **Senate Bill 284**

AN ACT ALLOWING THE CITY OF SANFORD TO ANNEX BY VOLUNTARY PETITION AREAS THAT ARE MORE THAN THREE MILES FROM THE CITY'S PRIMARY CORPORATE LIMITS IF THE AREAS ARE CONTIGUOUS TO THE CITY'S SATELLITE CORPORATE LIMITS, AND PROHIBITING THE CITY FROM ANNEXING AREAS WITHIN CHATHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(1) shall not apply to the City of Sanford if the area proposed for annexation is contiguous to the City's satellite corporate limits. For purposes of this act, the term "satellite corporate limits" means the corporate limits of any noncontiguous area annexed pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes by the City of Sanford or pursuant to a local act enacted by the General Assembly authorizing or effecting noncontiguous annexations for the City of Sanford.

SECTION 2. The City of Sanford shall not annex any areas pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes that are located within Chatham County.

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

In the General Assembly read three times and ratified this the 15th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-44 **Senate Bill 417**

AN ACT TO INCREASE THE FORCE ACCOUNT LIMIT FOR THE TOWN OF WILKESBORO.

The General Assembly of North Carolina enacts:

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

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

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when ~~either~~ the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000).~~ two million one hundred fifty-two thousand five hundred dollars ($2,152,500). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such

agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 2. This act applies only to the construction of a water pump station and the extension of a waterline to serve a Department of Transportation rest center to be built outside the corporate limits of the Town of Wilkesboro, and to the replacement of five sewer interceptor lines that will be installed throughout the Town of Wilkesboro.

SECTION 3. This act applies only to the Town of Wilkesboro.

SECTION 4. This act is effective when it becomes law and expires December 30, 2009.

In the General Assembly read three times and ratified this the 15th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-45 **House Bill 343**

AN ACT TO CLARIFY THAT LAW ENFORCEMENT OFFICERS OF COUNTIES SHALL INCLUDE OFFICERS OF CONSOLIDATED COUNTY-CITY LAW ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-402(e) reads as rewritten:

"(e) County Officers, Outside Territory, for Felonies. – Law-enforcement officers of counties may arrest persons at any place in the State of North Carolina when the arrest is based upon a felony committed within the territory described in subsection (b). For purposes of this subsection, law enforcement officers of counties shall include all officers of consolidated county-city law enforcement agencies."

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

In the General Assembly read three times and ratified this the 8th day of May, 2007.

Became law upon approval of the Governor at 1:45 p.m. on the 16th day of May, 2007.

Session Law 2007-46 **Senate Bill 361**

AN ACT TO AUTHORIZE THE WILDLIFE RESOURCES COMMISSION TO TEMPORARILY WAIVE THE ENFORCEMENT OF NO-WAKE ZONES UNDER SPECIAL CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 75A of the General Statutes is amended by adding a new section to read:

"**§ 75A-14.2. Temporary waiver of enforcement of no-wake zones.**

The Wildlife Resources Commission may temporarily and conditionally waive enforcement of a no-wake zone upon petition by a unit of local government that encompasses or abuts the no-wake zone if, after investigation of the reasons given for the temporary and conditional waiver, the Commission determines that public safety and the public welfare will not be significantly compromised by the waiver."

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

In the General Assembly read three times and ratified this the 9th day of May, 2007.

Became law upon approval of the Governor at 1:48 p.m. on the 16th day of May, 2007.

Session Law 2007-47 **House Bill 1185**

AN ACT TO ESTABLISH A SEASON FOR TAKING FOXES WITH WEAPONS AND BY TRAPPING IN JOHNSTON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season from December 1 through February 20 of each year for taking foxes with weapons and by trapping, with no tagging requirements prior to or after sale.

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

SECTION 3. This act applies only to Johnston County.

SECTION 4. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-48 **House Bill 443**

AN ACT AUTHORIZING CHEROKEE COUNTY TO USE THE DESIGN-BUILD METHOD OF CONSTRUCTION FOR A JUSTICE CENTER.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Cherokee County may use the design-build method of construction for a Justice Center to be located in Murphy, North Carolina. The County shall seek to prequalify and solicit at least two design-build teams to bid on the project and shall receive at least two sealed proposals from those teams for this project. The County shall interview at least two of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of the project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

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

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-49 **House Bill 410**

AN ACT TO PROVIDE FOR A MORE EVEN BALANCE IN THE ELECTION CYCLE FOR THE CLEVELAND COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of S.L. 2004-41 reads as rewritten:

"**SECTION 7.** Six members of the Cleveland County Board of Education shall be elected on Tuesday after the first Monday in November 2007, with the five persons receiving the highest numbers of votes elected to four-year terms and the person receiving the sixth highest number of votes elected to a two-year term. Five members shall be elected on Tuesday after the first Monday in November 2011 and every four years thereafter. The six members elected in November 2007 shall replace the six members of the board, or their successors, originally appointed from the previous boards for the Cleveland County, Kings Mountain and Shelby school units."

SECTION 2. Section 6 of S.L. 2004-41 reads as rewritten:

"**SECTION 6.** Three members of the Cleveland County Board of Education shall be elected on Tuesday after the first Monday in November 2005, and four members shall be elected on Tuesday after the first Monday in November 2009 and every four years thereafter. The three members elected in November 2005 shall replace the three members of the board originally appointed at large without regard to membership on the previous boards for the Cleveland County, Kings Mountain and Shelby school units."

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

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-50 **Senate Bill 386**

AN ACT TO CONFIRM THAT WARREN COUNTY BOARD OF EDUCATION MEMBERS ARE TO BE ELECTED FROM TOWNSHIPS AS PROVIDED IN CHAPTER 335 OF THE PUBLIC-LOCAL LAWS OF 1937, AND TO PROVIDE THAT NEWLY ELECTED MEMBERS OF THAT BOARD TAKE OFFICE 30 DAYS AFTER CERTIFICATION OF THE ELECTION RESULTS.

The General Assembly of North Carolina enacts:

SECTION 1. The five members of the Warren County Board of Education shall be elected from townships as provided in Section 1 of Chapter 335, Public-Local Laws of 1937. The five districts for election of board members shall continue to be as follows:

(1) District One: Warrenton Township.
(2) District Two: River, Roanoke, and Six Pound Townships.
(3) District Three: Nutbush, Smith Creek, and Hawtree Townships.
(4) District Four: Sandy Creek, Shocco, and Fork Townships.
(5) District Five: Fishing Creek and Judkins Townships.

SECTION 2. To be eligible for election to the board from a district, a candidate must reside in the district, and to be eligible to serve as a member of the board representing a district, a person must reside in the district. All eligible voters of the county shall vote on the members from all five districts, however.

SECTION 3. If a vacancy occurs on the board, the remaining members of the board shall appoint a person to replace the departing member. The person appointed as the replacement must reside in the district which was served by the departing member.

SECTION 4. Notwithstanding G.S. 115C-37(d), effective beginning with those members elected in 2012, the terms of newly elected members of the board of

education begin 30 days after the certification of the results of the election. The term of office of members elected in 2008 expires at that time.

SECTION 5. Except as provided in this act, elections for the Warren County Board of Education shall be conducted according to general law.

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

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-51 **Senate Bill 364**

AN ACT TO AUTHORIZE THE TRAPPING AND SALE OF FOXES IN ASHE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping from November 7 through February 12 of each year. During this season, all leghold traps set on dry land with solid anchor shall have at least three swivels in the trap chain, and no leghold traps larger than size one and one-half may be used.

SECTION 2. A season bag limit of 10 applies in the aggregate to all foxes taken during the trapping season established in this act.

SECTION 3. The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act and pursuant to former G.S. 113-111, as retained to the extent of its application to Ashe County pursuant to G.S. 113-133.1(e).

SECTION 4. This act applies only to Ashe County.

SECTION 5. This act becomes effective October 1, 2007, and expires on September 30, 2010.

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-52 **Senate Bill 363**

AN ACT TO AUTHORIZE THE TAKING OF RACCOONS BY TRAPPING IN ASHE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking raccoons by trapping from November 7, 2007, through February 12, 2008, and each year thereafter as established by the Wildlife Resources Commission. During this season, all leghold traps set on dry land with solid anchor shall have at least three swivels in the trap chain, and no leghold traps larger than size one and one-half may be used.

SECTION 2. A season bag limit of 20 applies in the aggregate to all raccoons taken during the trapping season established in this act.

SECTION 3. This act applies only to Ashe County.

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

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-53 **House Bill 1041**

AN ACT TO ANNEX DIVIDED PARCELS TO THE TOWN OF EARL.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 4A of Chapter 160A of the General Statutes, the remainder of any parcel partially lying in the Town of Earl as the corporate limits were established by Chapter 787 of the 1971 Session Laws is annexed into the corporate limits of the Town of Earl.

SECTION 2. Prior to the annexation becoming effective, the Town of Earl shall do all of the following:

(1) Adopt an ordinance particularly identifying the property added to the corporate limits by Section 1 of this act.

(2) File a map indicating the annexed property with the Secretary of State, the Register of Deeds of Cleveland County, and the Board of Elections of Cleveland County.

(3) Obtain any necessary preclearance under the Voting Rights Act of 1965.

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

In the General Assembly read three times and ratified this the 22nd day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-54 **House Bill 552**

AN ACT TO PROVIDE QUALIFIED IMMUNITY FOR PERSONS SERVING ON LOCAL BOARDS OF TRUSTEES OF THE FIREMEN'S RELIEF FUND OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 84 of Chapter 58 of the General Statutes of North Carolina is amended by adding a new section to read:

"**§ 58-84-60. Immunity.**

A person serving on a local board of trustees of the Firemen's Relief Fund shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

(1) Was not acting within the scope of that person's official duties;

(2) Was not acting in good faith;

(3) Committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;

(4) Derived an improper personal financial benefit, either directly or indirectly, from the transaction; or

(5) Incurred the liability from the operation of a motor vehicle."

SECTION 2. This act becomes effective October 1, 2007, and applies only to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 16th day of May, 2007.

Became law upon approval of the Governor at 12:01 p.m. on the 23rd day of May, 2007.

Session Law 2007-55 **Senate Bill 658**

AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA FOR THE ASSESSMENT OF BANKS AND STATE TRUST COMPANIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-122(a)(1) reads as rewritten:

"(1) Banks. – Each bank shall pay a cumulative assessment based on its total assets, as shown on its report of condition made to the Commissioner of Banks as of December 31 each year or the date most nearly approximating the same, not to exceed the amount determined by applying the following schedule: (i) on the first fifty million dollars ($50,000,000) of assets, or fraction thereof, ~~six thousand dollars ($6,000);~~ ten thousand dollars ($10,000); (ii) on assets over fifty million dollars ($50,000,000), but not more than two hundred fifty million dollars ($250,000,000), ~~twelve dollars ($12.00)~~ fourteen dollars ($14.00) per one hundred thousand dollars ($100,000), or fraction thereof; (iii) on assets over two hundred fifty million dollars ($250,000,000), but not more than five hundred million dollars ($500,000,000), ~~nine dollars ($9.00)~~ eleven dollars ($11.00) per one hundred thousand dollars ($100,000), or fraction thereof; (iv) on assets over five hundred million dollars ($500,000,000), but not more than one billion dollars ($1,000,000,000), seven dollars ($7.00) per one hundred thousand dollars ($100,000), or fraction thereof; (v) on assets over one billion dollars ($1,000,000,000), but not more than ten billion dollars ($10,000,000,000), ~~five dollars ($5.00)~~ four dollars ($4.00) per one hundred thousand dollars ($100,000), or fraction thereof; and (vi) on assets over ten billion dollars ($10,000,000,000), ~~three dollars ($3.00)~~ two dollars ($2.00) per one hundred thousand dollars ($100,000), or fraction thereof. Additionally, each bank shall pay an assessment on trust assets held by it in the amount of one dollar ($1.00) per one hundred thousand dollars ($100,000) of the assets, or fraction thereof; except that banks are not required to pay assessments on real estate held as trust assets."

SECTION 2. G.S. 53-368(a) reads as rewritten:

"(a) For the purpose of operating and maintaining the office of the Commissioner, each State trust company shall pay into the office of the Commissioner, within 10 days after notice, an annual assessment of ~~six thousand dollars ($6,000)~~ ten thousand dollars ($10,000) plus one dollar ($1.00) per one hundred thousand dollars ($100,000) of assets held for its accounts, exclusive of nonsecuritized real estate interests. For purposes of this assessment, the amount of assets held for accounts shall be determined as of the close of business on December 31 of each year."

SECTION 3. This act is effective when it becomes law and applies to assessments made on or after that date.

In the General Assembly read three times and ratified this the 16th day of May, 2007.

Became law upon approval of the Governor at 12:02 p.m. on the 23rd day of May, 2007.

Session Law 2007-56 **Senate Bill 1026**

AN ACT TO RESTORE THE LICENSEE'S BIRTHDAY AS THE EXPIRATION DATE OF A DRIVERS LICENSE FOR A PERSON EIGHTEEN YEARS OLD OR OLDER; TO CORRECT THE DESCRIPTION OF THE DOCUMENTS REQUIRED TO BE PRESENTED BY LEGAL NONIMMIGRANT APPLICANTS FOR A DRIVERS LICENSE TO ESTABLISH THAT THEY ARE LEGALLY PRESENT IN THE UNITED STATES AND HOW LONG THEY ARE AUTHORIZED TO STAY; AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO CANCEL A DRIVERS LICENSE ISSUED TO A LEGAL NONIMMIGRANT IF THAT PERSON IS NO LONGER AUTHORIZED UNDER FEDERAL LAW TO BE IN THE UNITED STATES, ALL AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(f) reads as rewritten:

"§ **20-7. Issuance and renewal of drivers licenses.**

…

(f) Duration and Renewal of Licenses. – Drivers licenses shall be issued and renewed pursuant to the provisions of this ~~subsection.~~subsection:

(1) Duration of license for persons under age 18. – A full provisional license issued to a person under the age of 18 ~~shall expire~~expires on the person's twenty-first birthday.

(2) Duration of original license for persons at least 18 years of age or older. – A drivers license issued to a person at least 18 years old but less than 54 years old expires ~~eight years after the date of issuance.~~on the birthday of the licensee in the eighth year after issuance. A drivers license issued to a person at least 54 years old expires ~~five years after the date of issuance.~~on the birthday of the licensee in the fifth year after issuance.

(2a) Duration of renewed licenses. – A renewed drivers license that was issued by the Division to a person at least 18 years old but less than 54 years old expires eight years after the expiration date of the license that is renewed. A renewed drivers license that was issued by the Division to a person at least 54 years old expires five years after the expiration date of the license that is renewed.

(3) Duration of ~~license.~~license for certain other drivers. ~~– A drivers license that was issued by the Division and is renewed by the Division expires at the end of the period provided by this subsection after the expiration date of the license that is renewed~~ The durations listed in subdivisions (1), (2), and (2a) of this subsection are valid unless the Division determines that a license of shorter duration should be issued when the

applicant holds a visa of limited duration from the United States Department of Homeland Security, but in no event shall the license expire later than the applicant's lawful presence in the United States. ~~A person may apply to the Division to renew a license during the 180-day period before the license expires. The Division may not accept an application for renewal made before the 180-day period begins.~~

(3a) When to renew. – A person may apply to the Division to renew a license during the 180-day period before the license expires. The Division may not accept an application for renewal made before the 180-day period begins.

(4) Renewal by mail. – The Division may renew by mail a drivers license issued by the Division to a person who meets any of the following descriptions:

a. Is serving on active duty in the armed forces of the United States and is stationed outside this State.

b. Is a resident of this State and has been residing outside the State for at least 30 continuous days.

When renewing a license by mail, the Division may waive the examination that would otherwise be required for the renewal and may impose any conditions it finds advisable. A license renewed by mail is a temporary license that expires 60 days after the person to whom it is issued returns to this State.

(5) **(Effective July 1, 2008)** License to be sent by mail. – The Division shall issue to the applicant a temporary driving certificate valid for 20 days, unless the applicant is applying for renewal by mail under subdivision (4) of this subsection. The temporary driving certificate shall be valid for driving purposes only and shall not be valid for identification purposes. The Division shall produce the applicant's drivers license at a central location and send it to the applicant by first-class mail at the residence address provided by the applicant.

…."

SECTION 2. G.S. 20-7(f)(3), as amended by Section 1 of this act, reads as rewritten:

"§ **20-7. Issuance and renewal of drivers licenses.**

…

(f) Duration and Renewal of Licenses. – Drivers licenses shall be issued and renewed pursuant to the provisions of this subsection:

…

(3) Duration of license for certain other drivers. –The durations listed in subdivisions (1), (2) and (2a) if this subsection are valid unless the Division determines that a license of shorter duration should be issued when the applicant holds ~~a visa of limited duration from the United States Department of Homeland Security, but in no event shall the license expire later than the applicant's lawful presence in the United States.~~valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a

license of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States."

SECTION 3. G.S. 20-7(s) reads as rewritten:

"§ **20-7. Issuance and renewal of drivers licenses.**

…

(s) Notwithstanding the requirements of subsection (b1) of this section that an applicant present a valid social security number, the Division shall issue a drivers license of limited duration, under subsection (f) of this section, to an applicant present in the United States ~~under a valid visa issued to the applicant by the United States Department of Homeland Security if the applicant presents that valid visa.~~who holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States if the applicant presents that valid documentation and meets all other requirements for a license of limited duration."

SECTION 4. G.S. 20-4.01(2) reads as rewritten:

"§ **20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

…

(2) Canceled. – As applied to drivers' licenses and permits, a declaration that a license or permit which was issued through error or ~~fraud~~ fraud, or to which G.S. 20-15(a)(3) applies, is void and terminated.

…."

SECTION 5. G.S. 20-15(a) reads as rewritten:

"§ **20-15. Authority of Division to cancel license or endorsement.**

(a) The Division shall have authority to cancel any driver's license upon determining ~~that the licensee was not entitled to the issuance thereof hereunder, or that said licensee failed to give the required or correct information in his application, or committed fraud in making such application.~~any of the following:

(1) The licensee was not entitled to the issuance of the license under this Chapter.

(2) The licensee failed to give the required or correct information on the license application or committed fraud in making the application.

(3) The licensee is no longer authorized under federal law to be legally present in the United States."

SECTION 6. Section 1 of this act becomes effective January 1, 2007, and applies to drivers licenses issued or renewed on or after that date. Sections 2 through 5 are effective when this act becomes law and apply to drivers licenses issued or renewed on or after that date. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2007.

Became law upon approval of the Governor at 12:05 p.m. on the 23rd day of May, 2007.

Session Law 2007-57 **Senate Bill 354**

AN ACT TO EXPEDITE THE CONSTRUCTION, REPAIR, OR REINSTALLATION OF AILING SEWER INFRASTRUCTURE BY AUTHORIZING THE CITY OF WILMINGTON TO USE THE PROCEDURE AND AUTHORITY OF CHAPTER

136 OF THE GENERAL STATUTES IN CONDEMNATION PROCEEDINGS CONCERNING SEWER.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, is amended by adding a new Article to read:

"ARTICLE XVIIIA. ADDITIONAL EMINENT DOMAIN POWERS.

"Sec. 18A.1. Additional Eminent Domain Powers. Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property interests (including, without limitation, fee simple title, rights-of-way, and easements) to be used for sewer lines and treatment facilities, the city may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'City Manager'; 'Manager', and whenever therein the word 'highway' appears, it is deemed to include projects in accordance with this section, provided further that nothing herein shall be construed to enlarge the power of the city to condemn property already devoted to public use. The powers granted by this section are in addition to and supplementary to those powers granted by any local or general law. This section applies only for proceedings initiated on or before December 31, 2009."

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

In the General Assembly read three times and ratified this the 24th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-58 **Senate Bill 624**

AN ACT PROVIDING THAT GATES COUNTY MAY PROHIBIT THE ISSUANCE OF A BUILDING PERMIT TO A DELINQUENT TAXPAYER.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3(b) of S.L. 2005-433, as amended by Section 2 of S.L. 2006-150, reads as rewritten:

"**SECTION 3.(b)** This section applies to Davie, Gates, Greene, Lenoir, Lincoln, Iredell, Wayne, and Yadkin Counties only."

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

In the General Assembly read three times and ratified this the 30th day of May, 2007.

Became law on the date it was ratified.

Session Law 2007-59 **Senate Bill 260**

AN ACT TO ENSURE THAT EDUCATIONAL MATERIALS ARE PROVIDED SO THAT SCHOOLS PROVIDE INFORMATION TO PARENTS AND GUARDIANS CONCERNING CERVICAL CANCER, CERVICAL DYSPLASIA, HUMAN PAPILLOMAVIRUS, AND THE VACCINES AVAILABLE TO PREVENT THESE DISEASES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-47 is amended by adding a new subdivision to read:

"(49) To Ensure that Schools Provide Information Concerning Cervical Cancer, Cervical Dysplasia, Human Papillomavirus, and the Vaccines Available to Prevent These Diseases. – Local boards of education shall ensure that schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and places parents and guardians may obtain additional information and vaccinations for their children."

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

"(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five though 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 3. G.S. 115C-548 reads as rewritten:

"§ **115C-548. Attendance; health and safety regulations.**

Each private church school or school of religious charter shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to these schools so that they can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to these schools so that they can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 4. G.S. 115C-556 reads as rewritten:

"§ **115C-556. Attendance; health and safety regulations.**

Each qualified nonpublic school shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations the benefits and possible side effects of vaccination for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 5. G.S. 115C-565 reads as rewritten:

"§ **115C-565. Requirements exclusive.**

No school which complies with this Part shall be subject to any other provision of law relating to education except requirements of law respecting immunization. The Division of Nonpublic Education, Department of Administration, shall provide to home schools information about meningococcal meningitis and influenza and their vaccines. This information may be provided electronically or on the Division's Web page. The information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information

may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 6. The Division of Public Health, Department of Health and Human Services, shall make available sample educational materials that can be provided to parents and guardians. The Division shall provide these materials to (i) local school administrative units for public schools other than charter schools, (ii) the Department of Public Instruction for charter schools, and (iii) the Division of Nonpublic Education, Department of Administration, for nonpublic schools including home schools. These materials may be provided electronically.

SECTION 7. This act becomes effective July 1, 2007, and applies beginning with the 2007-2008 school year. However, during the 2007-2008 school year, year-round schools may comply with the provisions of this act by providing the required information no later than September 1, 2007.

In the General Assembly read three times and ratified this the 23rd day of May, 2007.

Became law upon approval of the Governor at 12:00 p.m. on the 31st day of May, 2007.

Session Law 2007-60 **Senate Bill 1354**

AN ACT TO ALLOW THE NORTH CAROLINA NATIONAL GUARD TO OPERATE POST EXCHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(b) The provisions of subsection (a) of this section shall not apply to:

…

(24) The North Carolina national guard, for the operation of post exchanges."

SECTION 2. Article 3 of Chapter 127A of the General Statutes is amended by adding a new section to read:

"**§ 127A-41.2. Operation of post exchanges.**

(a) The North Carolina national guard is authorized to operate post exchanges.

(b) The North Carolina national guard is authorized to enter into agreements with the Army & Air Force Exchange Service to operate post exchanges."

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

In the General Assembly read three times and ratified this the 23rd day of May, 2007.

Became law upon approval of the Governor at 12:01 p.m. on the 31st day of May, 2007.

Session Law 2007-61 **Senate Bill 1131**

AN ACT ALLOWING A DISTRICT COURT JUDGE TO PERFORM MARRIAGE CEREMONIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"§ **51-1. Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, district court judge of this State, or a magistrate; and

b. With the consequent declaration by the ~~minister~~ minister, district court judge of this State, or magistrate that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 2. This act becomes effective June 4, 2007, and expires June 8, 2007.

In the General Assembly read three times and ratified this the 5th day of June, 2007.

Became law upon approval of the Governor at 4:05 p.m. on the 5th day of June, 2007.

Session Law 2007-62 **Senate Bill 570**

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWNS OF CRAMERTON AND WATHA.

The General Assembly of North Carolina enacts:

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

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

…

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Cramerton, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield,

Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Watha, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

In the General Assembly read three times and ratified this the 6th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-63 **Senate Bill 645**

AN ACT TO AUTHORIZE SAMPSON COUNTY TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Sampson County may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Sampson County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Sampson County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sampson County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Sampson County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Sampson

County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Sampson County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. Administrative provisions. – G.S. 153A-155(g) reads as rewritten:

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

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

In the General Assembly read three times and ratified this the 7th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-64 **House Bill 203**

AN ACT TO EXTEND THE SEASON FOR TAKING RABBITS IN JOHNSTON COUNTY TO COINCIDE WITH THE RABBIT SEASON IN THE OTHER COUNTIES OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 701 of the 1993 Session Laws is repealed.

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

In the General Assembly read three times and ratified this the 7th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-65 **House Bill 548**

AN ACT TO PROVIDE THAT THE MAYOR OF THE CITY OF BREVARD IS ELECTED TO A FOUR-YEAR TERM, AND TO MAKE CONFORMING CHANGES CONCERNING FILLING OF VACANCIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.2 of the Charter of the City of Brevard, being Chapter 415 of the 1981 Session Laws, reads as rewritten:

"Sec. 2.2. Mayor, Term of Office, Duties. The Mayor shall be elected by and from the qualified voters of the City for a term of ~~two~~ four years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the City government, shall preside at all meetings of the City Council, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on matters before the Council only where there are an equal number of votes in the affirmative and in the negative."

SECTION 2. Section 2.6 of the Charter of the City of Brevard, being Chapter 415 of the 1981 Session Laws, reads as rewritten:

"Sec. 2.6. Vacancies. In the event a vacancy occurs in the office of the Mayor, ~~the City Council may by majority vote fill it for the remainder of the term.~~ it shall be filled in accordance with G.S. 160A-63. In the event a vacancy in the office of Councilman occurs ~~during the final two years of a regular term, the remaining members of the Council may by majority vote fill it for the remainder of the term. In the event a vacancy in the office of Councilman occurs during the first two years of a regular term, the remaining members of the Council may by majority vote fill it until the next election, at which it shall be filled by the voters for the remaining two years of the term.~~it shall be filled in accordance with G.S. 160A-63."

SECTION 3. Section 3.2 of the Charter of the City of Brevard, being Chapter 415 of the 1981 Session Laws, reads as rewritten:

"Sec. 3.2. Election of the Mayor. At the regular municipal election in ~~1981,~~ 2009, and every ~~two~~ four years thereafter, there shall be elected a Mayor to serve a term of ~~two~~ four years. The Mayor shall be elected by the qualified voters of the City voting at large."

SECTION 4. Section 2 of this act is effective when it becomes law. The remainder of this act becomes effective January 1, 2009, and applies to mayoral elections conducted thereafter.

In the General Assembly read three times and ratified this the 7th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-66 **House Bill 827**

AN ACT TO ALLOW THE TOWNS OF CARY AND WAKE FOREST TO ADOPT ORDINANCES REGULATING DEMOLITION OF HISTORIC STRUCTURES IN THEIR HISTORIC DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) In order to preserve and enhance one of the most valuable and unique natural resources of the community, and to preserve the property values and promote the general welfare of its citizens, a municipality may adopt ordinances to regulate the demolition of historic structures within its municipal corporate limits and extraterritorial jurisdiction. For purposes of this act, the term "historic structures" means:

(1) Any designated local, State, or national landmark; or,

(2) Any structure that is:

a. Individually listed in the National Register of Historic Places;

b. Individually identified as a contributing structure in a historic district listed in the National Register of Historic Places;

c. Certified or preliminarily determined by the Secretary of the Interior as contributing to the significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

d. Individually listed in the State inventory of historic places;

e. Individually listed in the county Register of Historic Places; or,

f. Individually listed in a local inventory of historic places in communities with historic preservation programs that have been certified by an approved State program (including certified local governments) as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

SECTION 1.(b) Prior to adopting an ordinance under this act, a public hearing shall be held before the governing board of the municipality. Notice of the hearing shall be given in accordance with G.S. 160A-364. An ordinance adopted under this act may not prohibit the demolition of historic structures except in accordance with the provisions of Part 3C of Article 19 of Chapter 160A of the General Statutes.

SECTION 2. This act applies to the Towns of Cary and Wake Forest only.

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

In the General Assembly read three times and ratified this the 7th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-67 **House Bill 987**

AN ACT TO MODIFY THE NORTH CAROLINA TRAVEL AND TOURISM BOARD TO INCLUDE REPRESENTATIVES OF THE CHARTER BOAT/HEADBOAT INDUSTRY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-434.1(c) reads as rewritten:

"(c) The Board shall consist of ~~27~~ 29 members as follows:

(1) The Secretary of Commerce, who shall not be a voting member.

(2) The Director of the Division of Tourism, Film, and Sports Development, who shall not be a voting member.

(3) Two members designated by the Board of Directors of the North Carolina Hotel and Motel Association.

(4) Two members designated by the Board of Directors of the North Carolina Restaurant Association.
(5) Three Directors of Convention and Visitor Bureaus designated by the Board of Directors of the North Carolina Association of Convention and Visitor Bureaus.
(6) The Chairperson of the Travel and Tourism Coalition.
(7) The President of the Travel Council of North Carolina.
(8) A member designated by the Board of Directors of the Travel Council of North Carolina.
(9) The President of North Carolina Citizens for Business and Industry.
(10) One member designated by the North Carolina Petroleum Marketers Association.
(11) One person associated with tourism attractions in North Carolina, appointed by the Speaker of the House of Representatives. One person who is not a member of the General Assembly, appointed by the Speaker of the House of Representatives.
(12) One person associated with the tourism-related transportation industry, appointed by the President Pro Tempore of the Senate. One person who is not a member of the General Assembly, appointed by the President Pro Tempore of the Senate.
(13) Four public members each interested in matters relating to travel and tourism, two appointed by the Governor (one from a rural area and one from an urban area), one appointed by the Speaker of the House, and one appointed by the President Pro Tempore of the Senate.
(14) One member associated with the major cultural resources and activities of the State in North Carolina, appointed by the Governor.
(15) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.
(16) Two members of the Senate, appointed by the President Pro Tempore of the Senate.
(17) Two members designated by the Board of Directors of North Carolina Watermen United who represent the charter boat/headboat industry."

SECTION 2. The members of the Board added under Section 1 of this act shall serve a first term beginning on the date of their designation and ending on December 31, 2009. Thereafter, they shall serve two-year terms which shall begin on January 1 of an even-numbered year and end on December 31 of the following year.

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

In the General Assembly read three times and ratified this the 29th day of May, 2007.

Became law upon approval of the Governor at 2:45 p.m. on the 7th day of June, 2007.

Session Law 2007-68 **Senate Bill 872**

AN ACT TO ADOPT THE THALIAN ASSOCIATION AT WILMINGTON, NORTH CAROLINA, AS THE OFFICIAL COMMUNITY THEATER OF NORTH CAROLINA.

Whereas, the Thalian Association was organized in 1788 in Wilmington, North Carolina; and

Whereas, the Thalian Association is the oldest community theater in the State of North Carolina; and

Whereas, the Thalian Association was organized for the purpose of providing a foundation for the artistic, cultural, and social development of the Wilmington community; and

Whereas, the Thalian Association participated in the endowment of the Innes Academy, the first public school in Wilmington, and supported that endowment by organizing a community theater company, the proceeds from which supported the public school and the poor of Wilmington; and

Whereas, the Thalian Association was first chartered by the State of North Carolina in 1814 to provide "learning and the promotion of literature" to the people of Wilmington; and

Whereas, the Thalian Association community theater became an enduring tradition in the Wilmington community that has lasted from 1788 to the present day and from its beginning has attracted the support and participation of the most public-spirited of Wilmington citizens; and

Whereas, the Thalian Association contributed in 1851 to the building of the Washington Monument, and its public-spirited generosity is displayed to this day in a memorial stone on Landing 23 that reads "Wilmington, North Carolina, Thalian Association"; and

Whereas, the Thalian Association, championing the need for a large and beautiful public theater, conceived the original idea of a civic union of culture and government and formed a partnership in 1854 with the City of Wilmington to build a combination theater and City Hall; and

Whereas, the Thalian Association in 1854 sent its president, Robert H. Cowen, to New York City to commission America's premier theater designer, John M. Trimble, to design a theater and City Hall building; and

Whereas, the Thalian Association in 1857 to 1858 supervised the construction of the theater and City Hall building, named Thalian Hall; and

Whereas, the Thalian Association in 1860 gave its ownership interest in Thalian Hall to the City of Wilmington; and

Whereas, the Thalian Association in the Civil War years of 1861 to 1865 committed itself to fund-raising performances in Thalian Hall to help alleviate sufferings from yellow fever and smallpox epidemics; and

Whereas, the Thalian Association in the Reconstruction years of 1865 to 1871 struggled against political partisanship and provided a bridge over the chasm of bitterness; and

Whereas, the Thalian Association in the post-Civil War era supported popular education in a nonpartisan manner despite opposition, continued the tradition of theater despite economic decline and poverty, opened Thalian Association membership, and allowed onstage participation in the theater for the first time to females; and

Whereas, the Thalian Association maintained through the years of poverty the spirit of culture and provided a focal point for the revival of the performing arts in the early 20th century; and

Whereas, the Thalian Association rescued Thalian Hall from neglect and possible destruction and restored it to its original beauty; and

Whereas, the Thalian Association inaugurated children's theater in Wilmington; and

Whereas, the Thalian Association is fully committed in the present and in the future to the historic and cultural preservation of Wilmington and Southeastern North Carolina in the face of rapid development and irreversible change; and

Whereas, the Thalian Association stages each year five productions of drama and musical theater in the Thalian Hall Center for the Performing Arts, six productions of children's theater in the Hannah Block Historic USO and Community Arts Center, a street fair showcasing locally produced visual art, and a bluegrass musical festival; and

Whereas, for no monetary consideration, the Thalian Association promises to further assist the State of North Carolina in its work of advertising and promoting the educational, cultural, and economic interests of the State, and in attracting and encouraging people from other states and countries to visit the State where so many shrines and historical sites are located; and

Whereas, the General Assembly wishes to recognize the Thalian Association for its contributions to the cultural life of this State over the last 218 years by recognizing it as the official community theater of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-28. State community theater.**

The Thalian Association in Wilmington, North Carolina, is adopted as the official community theater of North Carolina."

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

In the General Assembly read three times and ratified this the 29th day of May, 2007.

Became law upon approval of the Governor at 2:48 p.m. on the 7th day of June, 2007.

Session Law 2007-69 **House Bill 328**

AN ACT TO AUTHORIZE A MORE FLEXIBLE PAYMENT SCHEDULE FOR THE SPECIAL SEPARATION FOR LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.41(a) reads as rewritten:

"(a) Notwithstanding any other provision of law, every sworn law-enforcement officer as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department, agency, or institution who qualifies under this section shall receive, beginning ~~on the last day of~~ in the month in which he retires on a basic service retirement under the provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to him for each year of creditable service. The allowance shall be paid in ~~12 equal installments on the last day of each month.~~ equal installments on the payroll frequency used by the employer. To qualify for the allowance the officer shall:

(1) Have (i) completed 30 or more years of creditable service or, (ii) have attained 55 years of age and completed five or more years of creditable service; and
(2) Not have attained 62 years of age; and
(3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 29th day of May, 2007.

Became law upon approval of the Governor at 2:50 p.m. on the 7th day of June, 2007.

Session Law 2007-70 **Senate Bill 595**

AN ACT TO MODIFY THE APPOINTMENT PROCESS FOR TRUSTEES OF THE PUBLIC LIBRARY OF CHARLOTTE AND MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (a) of Section 2 of Chapter 710 of the Session Laws of 1965, as rewritten by Section 1 of Chapter 368 of the 1979 Session Laws, reads as rewritten:

"(a) The ~~said~~ Public Library of Charlotte and Mecklenburg County shall be governed by a board of ~~seven~~ 11 trustees. ~~Six~~ Ten trustees shall be appointed by the Board of County Commissioners of Mecklenburg County and one shall be appointed by the Charlotte-Mecklenburg Board of Education. No person shall be eligible to serve as a trustee during the time he holds any elective public office. The ~~four~~ trustees currently in office ~~who were selected by the Chairman of the Board of County Commissioners of Mecklenburg County and the Mayor of the City of Charlotte pursuant to Chapter 710 of the Session Laws of 1965~~ shall serve the remainders of the terms for which they were appointed. ~~Two additional trustees shall be appointed by the board of county commissioners for terms to expire on January 1, 1980, and one additional trustee shall be appointed by the Charlotte-Mecklenburg Board of Education for a term to expire on January 1, 1982.~~ Thereafter, all terms of office for trustees shall be four years, except that an appointment to fill a vacancy of an unexpired term shall be for the remainder of the unexpired term only, and provided that all trustees shall continue in office until their successors are qualified and appointed. Any trustee appointed by the board of county commissioners may be removed with or without cause at any time by a four-fifths vote of the board of county commissioners. The trustee appointed by the Charlotte-Mecklenburg Board of Education may be removed with or without cause at any time by a two-thirds vote of the members of that board. A trustee shall be removed upon missing three consecutive meetings of the board of trustees without good cause. All trustees shall serve without compensation."

SECTION 2. The Mecklenburg County Board of County Commissioners shall appoint two of the additional members authorized by this act within 12 months of the effective date of this act. The remaining two appointments shall be made within 24 months of the effective date of this act.

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

In the General Assembly read three times and ratified this the 11th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-71 **House Bill 537**

AN ACT MODIFYING THE STANDARDS FOR SATELLITE ANNEXATIONS FOR THE TOWN OF NORWOOD.

The General Assembly of North Carolina enacts:

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

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

…

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~ten percent (10%)~~ twenty-five percent (25%) of the area within the primary corporate limits of the annexing city.

…"

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

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

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-72 **House Bill 538**

AN ACT TO ALLOW THE TOWNS OF BADIN, CAROLINA BEACH, EMERALD ISLE, FREMONT, FAISON, INDIAN BEACH, KINGS MOUNTAIN, KURE BEACH, SHELBY AND WRIGHTSVILLE BEACH TO ADOPT ORDINANCES REGULATING GOLF CARTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2006-27 reads as rewritten:

"**SECTION 1.** This act applies to the City of Saluda and the ~~Town of Faison~~Towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Shelby and Wrightsville Beach only."

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

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-73 **House Bill 568**

AN ACT TO PERMIT THE TOWNS OF GARNER, HOLLY SPRINGS, ROLESVILLE, AND KNIGHTDALE TO LEVY A MOTOR VEHICLE PRIVILEGE TAX OF UP TO FIFTEEN DOLLARS FOR EACH RESIDENT VEHICLE LOCATED IN THE TOWNS.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the Towns of Garner, Holly Springs, Rolesville, and Knightdale only.

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

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ fifteen dollars ($15.00) per year upon any vehicle resident in the city or town. The proceeds of the tax up to five dollars ($5.00) may be used for any lawful purpose. The proceeds of these taxes derived from any levy above five dollars ($5.00) and up to fifteen dollars ($15.00) shall be used exclusively for transportation-related purposes, including sidewalks."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-74 **House Bill 621**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE TOWN OF BEECH MOUNTAIN.

The General Assembly of North Carolina enacts:

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

1. Tract 11 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
2. Tract 13 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
3. Tract 14 of the property of Stephen Galvin and Timothy J. Galvin, formerly the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 7, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
4. Tract 15 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.
5. Tract 16 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.

6. Tracts 17 and 18 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 17, Watauga County Registry, and in Plat Book 33, Page 38, Avery County Registry.

7. Tract 19 of the property of W. Franklin Hodges, Jr., and Wife, Patricia Hodges, as shown on survey recorded in Plat Book 13, Page 22, Watauga County Registry.

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

SECTION 3. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-75 **House Bill 1166**

AN ACT TO EXCHANGE CERTAIN DESCRIBED TERRITORY BETWEEN THE CITY OF HIGH POINT AND THE TOWN OF JAMESTOWN, AND TO DESCRIBE THE COMMON BOUNDARY LINE.

The General Assembly of North Carolina enacts:

SECTION 1. The following territory is removed from the corporate limits of the Town of Jamestown and added to the corporate limits of the City of High Point:

Tract 1

BEGINNING at a point, said point being on the southern right-of-way of Greensboro Road at Penny Road where the High Point/Jamestown municipal boundary intersects; thence along said right-of-way N 58° 34' 16" E, 210.27 feet to a point; thence along the property line N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at page 1933 S 37° 33' 19" E, 328.84 feet to a point where the High Point/Jamestown municipal boundary intersects; thence along said boundary N 68° 26' 15" W, to the place of BEGINNING; containing 0.79 acres ±.

SECTION 2. The following territory is removed from the corporate limits of the City of High Point and added to the corporate limits of the Town of Jamestown:

Tract 2

BEGINNING at a point, said point being on the property line N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at page 1933, and being a bearing and distance of S 37° 33' 19" E, 328.84 feet from the northernmost corner of said property; thence along the same bearing, 365.21 feet to a point; thence continuing along the boundary of Ragsdale Brothers, LLC N 56° 54' 27" E, 229.41 feet to a point where the High Point/Jamestown municipal boundary intersects; thence along said boundary N 68° 26' 15" W, to the place of BEGINNING; containing 0.92 acres ±.

Tract 3

BEGINNING at a point on the High Point/Jamestown municipal boundary, said point being a concrete monument with brass disk at N 816,083.97 E 1,718,442.28 in the western right-of-way of N. Scientific Street south of Kearns Street; thence N 68° 26' 15" W, following said boundary a distance of 1080 ± feet, to the first point of intersection with the property line N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at

page 1933; thence following said property line S 61° 17' 19" E, 575 ± feet to a point, being also on the rear property line of Lot 81 of the Kerns Heights subdivision as recorded in Plat Book 18, Page 94; thence continuing along the property line of Ragsdale Brothers, LLC S 57° 27' 15" E, 420.06 ± feet to a point, being the southwest corner of property N/F Robert Lee Lloyd; thence along the west property line of Robert Lee Lloyd N 7° 53' 16" E, 50.16 feet to a point, being the northwest corner of the Lloyd property; thence along the north property line of Lloyd S 81° 49' 42" E, 150.01 feet to a point, being the southeast corner of property N/F Roosevelt and Jean Y. Rorie; thence N 7° 45' 00" E following property line of Rorie to the point of BEGINNING; containing 1.91 acres ±.

SECTION 3. The boundary line between the City of High Point and the Town of Jamestown from Greensboro Road to N. Scientific Street is as follows:
BEGINNING at a point on the southern right-of-way of Greensboro Road where the High Point/Jamestown municipal boundary intersects; thence along said right-of-way N 58° 34' 16" E, 210.27 feet to a point, being the northernmost corner of property N/F Ragsdale Brothers, LLC as recorded in Deed Book 6542 at page 1933, S 37° 33' 19" E, 694.04 feet to a point; thence along said property line N 56° 54' 27" E, 232.49 feet to a point; thence continuing along said property line S 61° 17' 19" E, 605.40 feet to a point, being also on the rear property line of Lot 81 of Kerns Heights subdivision as recorded in Plat Book 18, Page 94; thence along the property line of Ragsdale Brothers, LLC, S 57°27' 15" E, 420.06 ± feet to a point, being the southwest corner of property N/F Robert Lee Lloyd; thence along the west property line of Lloyd N 7° 53' 16" E, 50.16 feet to a point, being the northwest corner of Lloyd; thence along the north property line of Lloyd S 81° 49' 42" E, 150.01 feet to a point; thence N 7° 45' 00" E along the right-of-way of N Scientific Street to a concrete monument with brass disk set on the High Point/Jamestown municipal boundary at N 816,083.97 E 1,718,442.28

SECTION 4. Sections 1 and 2 of this act have no effect upon the validity of any liens of the Town of Jamestown or the City of High Point for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the municipality from which the property was removed.

SECTION 5. This act becomes effective June 30, 2007.

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-76 **House Bill 1227**

AN ACT EXEMPTING NEW HANOVER REGIONAL MEDICAL CENTER, A NEW HANOVER COUNTY HOSPITAL, FROM STATUTORY REQUIREMENTS GOVERNING PUBLIC CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. No provision of law with respect to the acquisition or operation of property by other public bodies shall be applicable to New Hanover Regional Medical Center (hereinafter "Center") unless otherwise specified by the General Assembly, except that the Center shall do all of the following:

(1) Obtain a resolution from the Board of Commissioners of New Hanover County approving the Center's exemption from statutory requirements governing public contracts as provided in this act.
(2) Comply with the minority business participation requirements set forth in Article 8 of Chapter 143 of the General Statutes.
(3) Comply with the certificate of need requirements set forth in Article 9 of Chapter 131E of the General Statutes.
(4) Conduct an annual independent audit of all contracts for construction or repair work that would otherwise be subject to the competitive bidding requirements provided in G.S. 143-129.
(5) Comply with all applicable local zoning and land use regulations.

SECTION 2. The annual independent audit required by Section 1 of this act shall be reported to the Center's Board of Trustees. The audit shall include the specific reasons for utilizing the authority granted by this act.

SECTION 3. The Center shall comply with the provisions of Chapter 132 of the General Statutes as applicable to other public hospitals.

SECTION 4. Once a contract is entered into by the Center pursuant to the provisions of this act, the Center shall prepare a document setting out the reasons for utilizing the authority granted by this act, include the document in its official files, and make the document available to the public.

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

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-77 **Senate Bill 1456**

AN ACT TO ALLOW CERTAIN TANDEM VEHICLE COMBINATIONS TO OPERATE ON HIGHWAYS WITHIN THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-116(e) reads as rewritten:

"(e) Except as provided by G.S. 20-115.1, no combination of vehicles coupled together shall consist of more than two units and no such combination of vehicles shall exceed a total length of 60 feet inclusive of front and rear bumpers, subject to the following exceptions: Motor vehicle combinations of one semitrailer of not more than 48 feet in length and a truck tractor (power unit) may exceed the 60-foot maximum length. Said length limitation shall not apply to vehicles operated in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, nor to such vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of said projecting load to clearly mark the dimensions of such load: Provided that vehicles designed and used exclusively for the transportation of motor vehicles shall be permitted an overhang tolerance front or rear not to exceed five feet. Provided, that wreckers may tow a truck, combination tractor and trailer, trailer, or any other disabled vehicle or combination of vehicles to a place for repair, parking, or storage within 50 miles of the point where the vehicle was

disabled and may tow a truck, tractor, or other replacement vehicle to the site of the disabled vehicle. Provided, however, that a combination of a house trailer used as a mobile home, together with its towing vehicle, shall not exceed a total length of 55 feet exclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to trailers not exceeding three in number drawn by a motor vehicle used by municipalities for the removal of domestic and commercial refuse and street rubbish, but such combination of vehicles shall not exceed a total length of 50 feet inclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a driveway service when no more than three saddle mounts are used and provided further, that equipment used in said combination is approved by the safety regulations of the Federal Highway Administration and the safety rules of the Department of Crime Control and Public Safety."

SECTION 2. G.S. 20-115.1(f) reads as rewritten:

"(f) Motor vehicle combinations operating pursuant to this section shall have reasonable access between (i) highways on the interstate system (except those exempted by the United States Secretary of Transportation pursuant to 49 USC § 2311(i) and 49 USC § 2316(e)) and other qualifying federal-aid highways as designated by the United States Secretary of Transportation and (ii) terminals, facilities for food, fuel, repairs, and rest and points of loading and unloading by household goods carriers and by any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28 1/2 feet and a width not to exceed 102 inches as provided in subsection (c) of this section and which generally operates as part of a vehicle combination described in subsection (a) of this section. The North Carolina Department of Transportation may, on streets and highways on the State highway system, and any municipality may, on streets and highways on the municipal street system, impose reasonable restrictions based on safety considerations on any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28 1/2 feet and which generally operates as part of a vehicle combination described in subsection (a) of this section. "Reasonable access" to facilities for food, fuel, repairs and rest shall be deemed to be those facilities which are located within three road miles of the interstate or designated highway. The Department of Transportation is authorized to promulgate rules and regulations providing for "reasonable access." The Department may approve reasonable access routes for one particular type of STAA (Surface Transportation Assistance Act) dimensioned vehicle when significant, substantial differences in their operating characteristics exist."

SECTION 3. G.S. 20-115.1(g) reads as rewritten:

"(g) Under certain conditions, and after consultation with the Joint Legislative Commission on Governmental Operations, the North Carolina Department of Transportation may designate State highway system roads in addition to those highways designated by the United States Secretary of Transportation for use by the vehicle combinations authorized in this section. Such designations by the Department shall only be made under the following conditions:

(1) A determination of the public convenience and need for such designation;

(2) A traffic engineering study which clearly shows the road proposed to be designated can safely accommodate and has sufficient capacity to handle these vehicle combinations; and

(3) A public hearing is held or the opportunity for a public hearing is provided in each county through which the designated highway passes, after two weeks notice posted at the courthouse and published in a newspaper of general circulation in each county through which the designated State highway system road passes, and consideration is given to the comments received prior to the designation.

(4) The Department may designate routes for one particular type of STAA (Surface Transportation Assistance Act) dimensioned vehicle when significant, substantial differences in their operating characteristics exist.

No portion of the State highway system within municipal corporate limits may be designated by the Department without concurrence by the municipal governing body. Also, the Department may not designate any portion of the State highway system that has been deleted or exempted by the United States Secretary of Transportation based on safety considerations. For the purpose of this section, any highway designated by the Department shall be deemed to be the same as a federal-aid primary highway designated by the United States Secretary of Transportation pursuant to 49 USC § 2311 and 49 USC § 2316, and the vehicle combinations authorized in this section shall be permitted to operate on such highway."

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

In the General Assembly read three times and ratified this the 7th day of June, 2007.

Became law upon approval of the Governor at 4:02 p.m. on the 14th day of June, 2007.

Session Law 2007-78 **Senate Bill 1132**

AN ACT TO PROMOTE EFFICIENCY AND EFFECTIVENESS IN STATE GOVERNMENT BY ESTABLISHING A PROGRAM EVALUATION DIVISION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-32(1) reads as rewritten:

"§ **120-32. Commission duties**.

The Legislative Services Commission is ~~hereby~~ authorized to:

(1) Determine the number, titles, classification, functions, compensation, and other conditions of employment of the joint legislative service employees of the General Assembly, including but not limited to the following departments:

a. Legislative Services Officer and ~~personnel,~~personnel.
b. Electronic document writing ~~system,~~system.
c. ~~Proofreaders,~~Proofreaders.
d. Legislative ~~printing,~~printing.
e. Enrolling clerk and ~~personnel,~~personnel.
f. ~~Library,~~Library.
g. Research and bill ~~drafting,~~drafting.
h. Printed ~~bills,~~ bills.
i. Disbursing and ~~supply;~~supply.
j. Program evaluation.

Temporary employees of the General Assembly are exempt from the provisions of G.S. 135-3(8)c., as to compensation earned in that status."

SECTION 2. G.S. 120-32.01 reads as rewritten:

"§ **120-32.01. Information to be supplied.**

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the Research, Fiscal Research, Program Evaluation, and Bill Drafting Divisions any information or records requested by ~~them.~~ them and access to any facilities and personnel requested by them. Except when accessibility is prohibited by a federal statute, federal ~~regulation~~ regulation, or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and ~~the Fiscal Research Division~~ these divisions access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the State Personnel Management Information System by the ~~Research and Bill Drafting~~ Research, Bill Drafting, and Program Evaluation Divisions shall only be through the Fiscal Research Division."

SECTION 3. Chapter 120 of the General Statutes is amended by adding a new article to read:

"Article 7C.

"Program Evaluation.

"**§ 120-36.11. Program Evaluation Division established.**

(a) Division. – The Program Evaluation Division of the General Assembly is established. The purpose of the Division is to assist the General Assembly in fulfilling its responsibility to oversee government functions by providing an independent, objective source of information to be used in evaluating whether public services are delivered in an effective and efficient manner and in accordance with law.

(b) Director. – The Director of the Program Evaluation Division is appointed by the Legislative Services Commission and serves at the pleasure of the Commission. The Director is responsible for hiring and dismissing employees of the Division and directing the activities of the Division. The Director may not hire or dismiss an employee without the approval of the Legislative Services Officer.

"**§ 120-36.12. Duties of Program Evaluation Division.**

The Program Evaluation Division of the Legislative Services Commission has the following powers and duties:

(1) To examine a program or an activity of a State agency and evaluate the merits of the program or activity and the agency's effectiveness in conducting the program or activity.

(2) To develop quantitative indicators for measuring the activities performed and services provided by a State agency and the extent to which the activities and services are achieving desired results.

(3) To develop unit cost measures to determine the cost of activities performed and services provided by a State agency.

(4) To determine if a program or an activity of a State agency complies with the agency's mission, as established by law.

(5) To make unannounced visits to a State agency when needed to evaluate a program or an activity of the agency.

(6) To make recommendations to improve the efficiency and effectiveness of a State agency.

(7) To determine the extent to which a State agency has implemented any of the Division's recommendations concerning the agency.

(8) To require a State agency to submit a written response to a proposed or final recommendation of the Division and to submit a written explanation of the extent to which the agency has implemented the Division's recommendations.

(9) To make periodic reports of the activities and recommendations of the Division and of any savings achieved by the implementation of its recommendations.

"**§ 120-36.13. Work plan and requests for program evaluation.**

(a) Plan. – The Joint Legislative Program Evaluation Oversight Committee, in consultation with the Director of the Program Evaluation Division, must establish an annual work plan for the Division. The Division must adhere to this plan, unless the Joint Legislative Program Evaluation Oversight Committee changes the plan to add a new evaluation or remove a planned evaluation.

(b) Request. – A request to the Program Evaluation Division for an evaluation of a program or an activity of a State agency must be submitted by a member of the General Assembly. The Director of the Division must review each request in accordance with the following criteria and make a recommendation to the Joint Legislative Program Evaluation Oversight Committee on whether to amend the Division's work plan to include the requested evaluation:

(1) The work required to conduct the requested evaluation.

(2) The effect that conducting the requested evaluation will have on the Division's ability to complete its work plan.

(3) The significance of the requested evaluation compared to the evaluations to be conducted under the work plan.

(4) Any overlap between the requested evaluation and other evaluations previously conducted by the Division or another agency.

"**§ 120-36.14. Content of report of Program Evaluation Division.**

A report of an evaluation of a program or an activity of a State agency by the Program Evaluation Division of the General Assembly must include the following:

(1) The findings of the Division concerning the program or activity.

(2) Specific recommendations for making the program or activity more efficient or effective.

(3) Any legislation needed to implement the Division's findings and recommendations concerning the program or activity.

(4) An estimate of the costs or savings expected from implementing the Division's findings and recommendations concerning the program or activity.

"**§ 120-36.15. Joint Legislative Program Evaluation Oversight Committee established.**

(a) Membership. – The Joint Legislative Program Evaluation Oversight Committee is established. The Committee consists of 18 members as follows:

(1) Nine members of the Senate appointed by the President Pro Tempore of the Senate. At least two of the members must be a Cochair of the Senate Appropriations Committee or a subcommittee of the Senate

Appropriations Committee. At least three of the members must be members of the minority party.

(2) Nine members of the House of Representatives appointed by the Speaker of the House of Representatives. At least two of the members must be a Cochair of the House Appropriations Committee or a subcommittee of the House Appropriations Committee. At least three of the members must be members of the minority party.

(b) Terms. – Terms on the Committee are for two years and begin on January 15 of each odd-numbered year. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly. Resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until a successor is appointed.

(c) Chairs and Quorum. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives must each designate a cochair of the Committee. The Committee meets upon the call of the cochairs. A quorum of the Committee is nine members. The Committee may not act except by a majority vote at a meeting at which a quorum is present.

(d) Standard Procedure. – In performing its duties, the Committee has the powers of a committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. Funding for the Committee is provided by the Legislative Services Commission from appropriations made to the General Assembly. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer must assign professional and clerical staff to assist the Committee in its work.

"**§ 120-36.15. Duties of Joint Legislative Program Evaluation Oversight Committee.**

The Joint Legislative Program Evaluation Oversight Committee has the following powers and duties:

(1) To receive and review requests for evaluations to be performed by the Program Evaluation Division of the General Assembly.

(2) To establish an annual work plan for the Program Evaluation Division that describes the evaluations to be performed by the Division. The Committee must consult with the Director of the Program Evaluation Division in performing this duty.

(3) To receive reports prepared by the Program Evaluation Division.

(4) To consult with an oversight committee or another committee established in this Chapter about a report concerning a program or an activity that is within that committee's scope of study.

(5) To recommend to the General Assembly any changes needed to implement a recommendation that is included in a report of the Program Evaluation Division and is endorsed by the Committee."

SECTION 4. This act is effective when it becomes law. Notwithstanding G.S. 120-36.15, as enacted by Section 3 of this act, the terms of the initial members of the Joint Legislative Program Evaluation Oversight Committee begin on appointment and end on January 15, 2009.

In the General Assembly read three times and ratified this the 5th day of June, 2007.

Became law upon approval of the Governor at 4:10 p.m. on the 14th day of June, 2007.

Session Law 2007-79 **Senate Bill 197**

AN ACT TO REPEAL THE SUNSET OF THE 2005 AMENDMENTS TO THE LAW THAT STRENGTHENED THE PROTECTION OF CONSUMERS SEEKING ASSISTANCE WITH MANAGING THEIR DEBTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2005-408 reads as rewritten:

"**SECTION 4**. G.S. 14-426(7)g., as enacted by Section 1 of this act, becomes effective October 1, 2005. G.S. 14-423(a)(2) as amended by Section 2 of this act becomes effective December 31, 2005. The remainder of this act is effective when it becomes law. ~~This act expires October 1, 2007.~~"

SECTION 2. This act becomes effective September 1, 2007.

In the General Assembly read three times and ratified this the 5th day of June, 2007.

Became law upon approval of the Governor at 4:31 p.m. on the 14th day of June, 2007.

Session Law 2007-80 **Senate Bill 34**

AN ACT TO MAKE IT A CLASS H FELONY TO WILLFULLY KILL A LAW ENFORCEMENT AGENCY ANIMAL OR ASSISTANCE ANIMAL AND TO MAKE IT AN AGGRAVATING CIRCUMSTANCE FOR OTHER CRIMINAL OFFENSES THAT A LAW ENFORCEMENT AGENCY ANIMAL OR ASSISTANCE ANIMAL WAS SERIOUSLY HARMED OR KILLED WHILE THE ANIMAL WAS ENGAGED IN PERFORMING OFFICIAL DUTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-163.1 is amended by adding a new subsection to read as follows:

"(a1) Any person who knows or has reason to know that an animal is a law enforcement agency animal or an assistance animal and who willfully kills the animal is guilty of a Class H felony."

SECTION 2. G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(6a) The offense was committed against or proximately caused serious harm as defined in G.S. 14-163.1 or death to a law enforcement agency animal or assistance animal as defined in G.S. 14-163.1, while engaged in the performance of the animal's official duties."

SECTION 3. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2007.

Became law upon approval of the Governor at 4:55 p.m. on the 14th day of June, 2007.

Session Law 2007-81 **House Bill 784**

AN ACT TO AMEND THE FIRST DEGREE MURDER STATUTE TO CONFORM WITH THE UNITED STATES SUPREME COURT RULING IN ROPER V. SIMMONS THAT THE EXECUTION OF A DEFENDANT WHO WAS UNDER EIGHTEEN YEARS OF AGE AT THE TIME OF THE MURDER IS UNCONSTITUTIONAL AS RECOMMENDED BY THE HOUSE INTERIM STUDY COMMITTEE ON CAPITAL PUNISHMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-17 reads as rewritten:

"§ **14-17. Murder in the first and second degree defined; punishment.**

A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under ~~17~~18 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole. ~~Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000.~~ All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, when the ingestion of such substance causes the death of the user, shall be deemed murder in the second degree, and any person who commits such murder shall be punished as a Class B2 felon."

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

In the General Assembly read three times and ratified this the 7th day of June, 2007.

Became law upon approval of the Governor at 4:57 p.m. on the 14th day of June, 2007.

Session Law 2007-82 **Senate Bill 567**

AN ACT TO FACILITATE THE DISTRIBUTION OF E-BLEND FUELS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-143.6. Distribution of fuels that are a blend of petroleum and ethanol.**

(a) As used in this section:

(1) "E-10 fuel" means a blend of petroleum and ethanol that includes no more than ten percent (10%) ethanol by volume intended for use as a motor vehicle fuel.

(2) "E-blend fuel" means a blend of petroleum and ethanol that includes more than 10 percent (10%) and no more than eighty-five percent (85%) ethanol by volume intended for use as a motor vehicle fuel.

(3) "Listed" means equipment or materials that have been tested or evaluated by a nationally recognized testing laboratory, inspection agency, or other organization that periodically tests or evaluates equipment or materials for compliance with nationally recognized safety standards and that have been found to be free from reasonably foreseeable risks of fire, electric shock, and related hazards and to be suitable for use in a specified manner.

(b) E-blend fuel may be dispensed from equipment that fully complies with all requirements for use in dispensing gasoline or E-10 fuel if all of the following requirements are met by the entity dispensing the fuel:

(1) The manufacturer of the dispensing equipment has provided a written statement that the dispensing equipment is, in the opinion of the manufacturer, compatible with E-blend fuel and does not present a distinct hazard to the public. The written statement shall reference a particular type and model of equipment and shall be signed by a responsible official on behalf of the manufacturer. The written statement shall be retained in the files of the retail outlet or other entity dispensing the fuel and shall be made available to the Office of State Fire Marshal, upon request.

(2) The dispensing equipment fully complies with the requirements established by State law for dispensing E-10 fuel.

(3) The manufacturer has initiated the process of applying to an independent testing laboratory to have the equipment listed for use in dispensing E-blend fuel.

(4) The dispensing equipment clearly discloses that E-blend fuel is being dispensed and states the percentage of ethanol in the E-blend fuel."

SECTION 2. This act is effective when it becomes law and expires 1 July 2009.

In the General Assembly read three times and ratified this the 6th day of June, 2007.

Became law upon approval of the Governor at 4:58 p.m. on the 14th day of June, 2007.

Session Law 2007-83 **Senate Bill 777**

AN ACT TO INCREASE THE PUNISHMENT FOR VIOLATING CERTAIN LAWS REGULATING CERTIFIED PUBLIC ACCOUNTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93-13 reads as rewritten:

"§ **93-13. Violation of Chapter; penalty.**

~~Any violation of the provisions of this Chapter shall be deemed a Class 3 misdemeanor, and upon conviction thereof the guilty party shall only be fined not less~~

~~than one hundred dollars ($100.00) and not exceeding one thousand dollars ($1,000) for each offense.~~A violation of G.S. 93-3, 93-4, 93-5, 93-6, or 93-8 shall be a Class 1 misdemeanor."

SECTION 2. This act becomes effective December 1, 2007, and applies to violations occurring on or after that date.

In the General Assembly read three times and ratified this the 11th day of June, 2007.

Became law upon approval of the Governor at 5:01 p.m. on the 14th day of June, 2007.

Session Law 2007-84 **Senate Bill 1453**

AN ACT TO PREVENT THE USE OF OYSTER SHELLS IN LANDSCAPING OR HIGHWAY BEAUTIFICATION PROJECTS BY THE DEPARTMENT OF TRANSPORTATION OR ANY OTHER GOVERNMENTAL UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-123 reads as rewritten:

"§ **136-123. Restoration, preservation and enhancement of natural or scenic beauty.**

(a) The Department of Transportation is hereby authorized and empowered to acquire by purchase, exchanges or gift, the fee-simple title or any lesser interest therein in real property in the vicinity of public highways forming a part of the State highway system, for the restoration, preservation and enhancement of natural or scenic beauty; provided that no lands, rights-of-way or facilities of a public utility as defined by G.S. 62-3(23), or of an electric membership corporation or telephone membership corporation, may be acquired, except that the Department of Transportation upon payment of the full cost thereof may require the relocation of electric distribution or telephone lines or poles; provided further, that such lands may be acquired by the Department of Transportation with the consent of the public utility or membership corporation.

(b) No landscaping or highway beautification project undertaken by the Department or any other unit of government may use oyster shells as a ground cover. The Department or any other unit of government that comes into possession of oyster shells shall make them available to the Department of Environment and Natural Resources, Division of Marine Fisheries, for use in any oyster bed revitalization programs or any other program that may use the shells."

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

In the General Assembly read three times and ratified this the 11th day of June, 2007.

Became law upon approval of the Governor at 5:02 p.m. on the 14th day of June, 2007.

Session Law 2007-85 **Senate Bill 772**

AN ACT TO CHANGE THE AMOUNT OF THE FIDELITY BOND REQUIRED OF SCHOOL FINANCE OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-442(a) reads as rewritten:

"(a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the board of education, not less than ~~ten thousand dollars ($10,000) nor more than two hundred fifty thousand dollars ($250,000).~~ fifty thousand dollars ($50,000). This bond shall cover the faithful performance of all duties placed on the finance officer by or pursuant to law and the faithful accounting for all funds in his custody except State funds placed to the credit of the local school administrative unit by the State Treasurer. The premium on the bond shall be paid by the local school administrative unit."

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

In the General Assembly read three times and ratified this the 7th day of June, 2007.

Became law upon approval of the Governor at 5:10 p.m. on the 14th day of June, 2007.

Session Law 2007-86 **Senate Bill 350**

AN ACT AUTHORIZING THE TOWNS OF APEX, GARNER, AND KNIGHTDALE TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE FOR CERTAIN PUBLIC HEARINGS.

The General Assembly of North Carolina enacts:

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

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

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-87 **House Bill 836**

AN ACT RELATING TO THE DEFINITION OF SUBDIVISIONS IN BERTIE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-335 reads as rewritten:

"§ **153A-335.** "**Subdivision**" **defined.**

(a) For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

(2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

(5) The division of land by any method of transfer from a grantor to a grantee (or grantees) who is a member of the grantor's immediate family, solely for the residential use of the grantee (or grantees) for as long as the use is appropriate under local ordinances. For the purposes of this subdivision, the term "immediate family" includes only direct lineal descendants (children and grandchildren) and direct lineal ascendants (parents and grandparents). Divisions of land in this category must have access to an established public or private right-of-way or an easement for ingress and egress.

(b) A county may provide for expedited review of specified classes of subdivisions."

SECTION 2. This act applies to Bertie County only.

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-88 **House Bill 925**

AN ACT TO AUTHORIZE THE TOWN OF GRANITE QUARRY AND THE TOWN OF FAITH TO ESTABLISH A JOINT POLICE AUTHORITY TO PROVIDE POLICE PROTECTION FOR THE TWO TOWNS.

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Granite Quarry and the Town of Faith may establish a joint police authority to provide police protection for the two towns. The law enforcement officers employed by the joint police authority have the powers and authority set forth in Article 13 of Chapter 160A of the General Statutes to the same extent as if they were employed by either of the individual towns. The law enforcement officers shall be appointed by the authority and shall take the oath required for law enforcement officers generally.

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-89 **House Bill 1141**

AN ACT AMENDING THE CHARTER OF THE TOWN OF GRANITE QUARRY TO ALLOW THE TOWN TO OPERATE UNDER THE COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5-1 of the Charter of the Town of Granite Quarry, being S.L. 2003-203, reads as rewritten:

"Section 5-1. **Town to Operate Under ~~Mayor-Council~~ Council-Manager Plan.** The Town of Granite Quarry ~~operates~~ shall operate under the ~~mayor-council~~council-manager plan as provided in ~~Part 3~~Part 2 of Article 7 of Chapter 160A of the General Statutes."

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-90 **House Bill 1138**

AN ACT TO PROVIDE FOR FLEXIBILITY IN SCHOOL CONSTRUCTION AND REPAIR CONTRACTS FOR UNION COUNTY PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Prequalified bidders; solicited bid list. – Notwithstanding G.S. 143-129, the Union County Public Schools Board of Education ("Board") may prequalify a limited number of contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The Board must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The Board may prequalify only single prime contractors pursuant to this section.

The Board shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this section, if the Board does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the Board may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, and the contractor's failure to perform satisfactorily on past projects or a current project. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. All potential bidders must be notified in advance of the bidding process as to whether the potential bidder is prequalified.

This section applies only to renovation, repair, and rebuilding projects.

SECTION 2. Construction management. – Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to manage and assume liability for the completion of a project. The construction manager shall be

selected in the same manner that architects and engineers are selected pursuant to Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-prime system and contracts with a construction manager who will be liable for the completion of the project, the Board may combine the lowest responsible bids in each subdivision of work into a single contract to be administered by the construction manager.

SECTION 3. Design-build. – Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design-build method of construction as follows:

(1) The Board must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams. The request for proposals must contain a design criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond. This package should be developed by an architect.

(2) The Board shall interview at least three of the design-build teams that submit proposals. The Board shall award the contract to the best qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.

SECTION 4. Other methods. – Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

SECTION 5. Project bundling. – The Board may award a single contract pursuant to this act covering multiple facilities and sites, except that all facilities for which such contract is awarded under this act for new construction must be in the same grade level (elementary school, middle school, or high school) unless the facilities are part of a single campus.

SECTION 6. This act applies to the Union County Public Schools Board of Education only.

SECTION 7. This act is effective when it becomes law and expires July 1, 2011.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-91 **Senate Bill 620**

AN ACT TO AUTHORIZE COUNTIES TO MAKE LOANS TO CITIES UNDER CERTAIN CONDITIONS FOR THE PURPOSE OF REPAYING A DEBT OWED TO THE FEDERAL GOVERNMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-17.1 reads as rewritten:

"§ **160A–17.1. Grants <u>and loans</u> from other governments.**

<u>(a)</u> <u>Federal and State. –</u> The governing body of any city or county is hereby authorized to make contracts for and to accept grants-in-aid and loans from the federal and State governments and their agencies for constructing, expanding, maintaining, and operating any project or facility, or performing any function, which such city or county may be authorized by general law or local act to provide or perform.

In order to exercise the authority granted by this section, the governing body of any city or county may:

(1) Enter into and carry out contracts with the State or federal government or any agency or institution thereof under which such government, agency, or institution grants financial or other assistance to the city or county;

(2) Accept such assistance or funds as may be granted or loaned by the State or federal government with or without such a contract;

(3) Agree to and comply with any lawful and reasonable conditions which are imposed upon such grants or loans;

(3a) Agree to and comply with minimum minority business enterprise participation requirements established by the federal government and its agencies in projects financed by federal grants-in-aid or loans, by including such minimum requirements in the specifications for contracts to perform all or part of such projects and awarding bids pursuant to G.S. 143-129 and 143-131, if applicable, to the lowest responsible bidder or bidders meeting these and any other specifications.

(4) Make expenditures from any funds so granted.

(b) Local. – The governing body of a city that is subject to a lien by the federal government and is not eligible to receive a grant from the federal government until the lien is removed may accept a loan from the county in which the city is located in order to pay its debt to the federal government and have the lien removed. The term of the loan may not exceed three years. This subsection applies only to a city located in a county whose population does not exceed 20,000 according to the most recent annual population estimates certified by the State Budget Officer."

SECTION 2. The catchline of G.S. 153A-14 reads as rewritten:

"§ **153A-14. Grants and loans from other governments.**"

SECTION 3. This act is effective when it becomes law and expires on December 31, 2010.

In the General Assembly read three times and ratified this the 11th day of June, 2007.

Became law upon approval of the Governor at 7:00 p.m. on the 20th day of June, 2007.

Session Law 2007-92 **House Bill 1519**

AN ACT TO MODIFY THE LAW PERTAINING TO THE RESOLUTION OF DISPUTES BETWEEN THE BOARD OF EDUCATION AND THE BOARD OF COUNTY COMMISSIONERS REGARDING SCHOOL FUNDING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-431(d) reads as rewritten:

"(d) ~~If an appeal is taken to the appellate division of the General Court of Justice, and if such an appeal would result in a delay beyond a reasonable time for levying taxes for the year, the judge shall order the board of county commissioners to appropriate to the local school administrative unit for deposit in the local current expense fund a sum of money sufficient when added to all other moneys available to that fund to equal the amount of this fund for the previous year.~~ An appeal may be taken to the appellate

division of the General Court of Justice, and notice of appeal shall be given in writing within 10 days after entry of the judgment. All papers and records relating to the case shall be considered a part of the record on appeal. The conclusion of the school or fiscal year shall not be deemed to resolve the question in controversy between the parties while an appeal is still pending. Any final judgment shall be legally binding on the parties at the conclusion of the appellate process. The payment of any final judgment by the county in favor of the local school administrative unit shall not be considered, or used in any manner, to deny or reduce appropriations to the local school administrative unit by the county in fiscal years subsequent to the one at issue to offset such payment of a final judgment."

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

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 7:01 p.m. on the 20th day of June, 2007.

Session Law 2007-93 **Senate Bill 1248**

AN ACT TO CHANGE THE NAME OF THE NORTHEASTERN NORTH CAROLINA REGIONAL ECONOMIC DEVELOPMENT COMMISSION TO NORTH CAROLINA'S NORTHEAST COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-123(62) reads as rewritten:

"(62) The ~~Northeastern North Carolina Regional Economic Development~~ North Carolina's Northeast Commission, as established by G.S. 158-8.2."

SECTION 2. G.S. 143B-437.21(6) reads as rewritten:

"(6) Regional partnership. – Any of the following:

a. The Western North Carolina Regional Economic Development Commission created in G.S. 158-8.1.

b. ~~The Northeastern North Carolina Regional Economic Development~~ The North Carolina's Northeast Commission created in G.S. 158-8.2.

c. The Southeastern North Carolina Regional Economic Development Commission created in G.S. 158-8.3.

d. The North Carolina's Eastern Region Development Commission created in G.S. 158-33.

e. The Carolinas Partnership, Inc.

f. The Research Triangle Regional Partnership.

g. The Piedmont Triad Partnership."

SECTION 3. G.S. 158-8.2 reads as rewritten:

"§ **158-8.2. Creation of ~~Northeastern North Carolina Regional Economic Development~~North Carolina's Northeast Commission.**

(a) There is created the ~~Northeastern North Carolina Regional Economic Development Commission~~North Carolina's Northeast Commission to facilitate economic development in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and any other county assigned to the Commission by the

Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) The Commission shall consist of 18 appointed members and one ex officio member, as provided below. Each appointed member shall be an experienced business person who resides for most of the year in one or more of the counties that are members of the Commission.

(1) Six members shall be appointed by the Governor.

(2) Six members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Six members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The Secretary of Commerce, or a designee.

(5) Repealed by Session Laws 1999-237, s. 16.6(a).

Any person appointed to the Commission who is also a county commissioner may hold that office in addition to the offices permitted by G.S. 128-1.1. The appointing authorities are encouraged to discuss and coordinate their appointments in an effort to ensure as many counties served by the Commission are represented among the membership of the Commission.

(c) All members shall serve staggered two-year terms ending on June 30 biennially.

(d) Any appointment to fill a vacancy on the Commission shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be in accordance with G.S. 120-122.

(d1) The initial meeting shall be called by the Secretary of the Department of Commerce. The Commission shall meet no less than quarterly.

(e) The Commission shall elect annually from among its membership a four-member executive committee consisting of a chair, a vice-chair, a secretary, and a treasurer. Members shall serve one-year terms on the executive committee. The executive committee shall meet no less than quarterly.

(f) In addition to the powers and duties granted to economic development commissions in this Article, the ~~Northeastern North Carolina Regional Economic Development~~ North Carolina's Northeast Commission shall:

(1) Adopt and implement an economic development program, with the assistance of the economic development advisory board, as follows:

a. Survey northeastern North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process;

b. Enhance economic development activities that use the area's natural resources;

c. Develop and evaluate alternatives for northeastern North Carolina economic development;

d. Develop a preferred economic development plan for the region and establish strategies for implementing the plan;

e. Conduct feasibility studies to determine the nature and placement of economic developments for maximum economic impact;
f. Identify potential sites for economic development; and
g. Carry out other activities to develop and promote economic development.

(2) Repealed by Session Laws 1999-237, s. 16.6(a).

(3) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and duties.

(4) Repealed by Session Laws 1999-237, s. 16.5(b).

(g) Within the limits of funds available, the Commission may hire and fix the compensation of any personnel necessary to its operations, contract with consultants for any services as it may require, and contract with the State of North Carolina or the federal government, or any agency or department thereof, for any services as may be provided by those agencies. The Commission shall hire an employee to serve as president and chief executive officer. The Commission may carry out the provisions of any contracts it may enter.

Within the limits of funds available, the Commission may lease, rent, purchase, or otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or purchase necessary furniture, fixtures, and other equipment.

(h) Members of the Commission who are State employees shall receive travel expenses as provided in G.S. 138-6. Other Commission members shall receive per diem of one hundred dollars ($100.00) a day for each day of service when the Commission meets and shall be reimbursed for travel and subsistence as provided in G.S. 138-5."

SECTION 4. G.S. 158-12.1 reads as rewritten:

"§ **158-12.1. Commission funds secured.**

The Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, ~~Northeastern North Carolina Regional Economic Development~~ North Carolina's Northeast Commission, North Carolina's Eastern Region Development Commission, and Carolinas Partnership, Inc., may deposit money at interest in any bank, savings and loan association, or trust company in this State in the form of savings accounts, certificates of deposit, or such other forms of time deposits as may be approved for county governments. Investment deposits and money deposited in an official depository or deposited at interest shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this section, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository. This section applies to the regional economic development commissions listed in this section only for as long as the commissions are receiving State funds."

SECTION 5. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 7:04 p.m. on the 20th day of June, 2007.

Session Law 2007-94 **Senate Bill 492**

AN ACT EXEMPTING POLITICAL SUBDIVISIONS OF THE STATE FROM THE LAWS REGULATING PUBLIC CONTRACTS WHEN PURCHASING FROM CONTRACTS ESTABLISHED BY THE UNITED STATES OF AMERICA OR ANY FEDERAL AGENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-129(e) is amended by adding the following new subdivision to read:

"(e) Exceptions. – The requirements of this Article do not apply to:

...

(9a) Purchases of apparatus, supplies, materials, or equipment from contracts established by the United States of America or any federal agency, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the federal contract.

..."

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

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Became law upon approval of the Governor at 7:05 p.m. on the 20th day of June, 2007.

Session Law 2007-95 **Senate Bill 611**

AN ACT TO RECODIFY THE LAWS COVERING SERVICE AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes of North Carolina is amended by adding a new Article 43 entitled "Service Agreements.", which shall comprise G.S. 66-370, 66-371, 66-372, 66-373, and 66-374.

SECTION 2. G.S. 58-1-25 is recodified as G.S. 66-370.

SECTION 3. G.S. 58-1-30 is recodified as G.S. 66-371.

SECTION 4. G.S. 58-1-35 is recodified as G.S. 66-372.

SECTION 5. G.S. 58-1-36 is recodified as G.S. 66-373.

SECTION 6. G.S. 58-1-42 is recodified as G.S. 66-374.

SECTION 7. G.S. 58-1-15(b) reads as rewritten:

"(b) Any warranty made solely by a manufacturer, distributor, or seller of goods or services without charge, or an extended warranty offered as an option and made solely by a manufacturer, distributor, or seller of goods or services for charge, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or any other remedial measure, including replacement of goods or repetition of services, shall not be a contract of insurance under Articles 1 through 64 of this Chapter; however, service agreements on motor vehicles are governed by ~~G.S. 58-1-25, 58-1-35, and 58-1-36.~~ G.S. 66-370, 66-372, and 66-373. Service agreements on home appliances are governed by ~~G.S. 58-1-30, 58-1-35, and 58-1-36.~~ G.S. 66-371, 66-372, and 66-373."

SECTION 8. G.S. 58-1-20(c) reads as rewritten:

"(c) Persons issuing real property warranties shall comply with the requirements of ~~G.S. 58-1-36.~~ G.S. 66-373."

SECTION 9. G.S. 66-370, as recodified by Section 2 of this act, reads as rewritten:

"§ **66-370. Motor vehicle service agreement companies.**

(a) This section applies to all motor vehicle service agreement companies soliciting business in this State, but it does not apply to performance guarantees, warranties, or motor vehicle service agreements made by

(1) A manufacturer,
(2) A distributor, or
(3) A subsidiary or affiliate of a manufacturer or a distributor, where fifty-one percent (51%) or more of the subsidiary or affiliate is owned directly or indirectly by
    a. The manufacturer,
    b. The distributor, or
    c. The common owner of fifty-one percent (51%) or more of the manufacturer or distributor

in connection with the sale of motor vehicles. This section does not apply to any motor vehicle dealer licensed to do business in this State (i) whose primary business is the retail sale and service of motor vehicles; (ii) who makes and administers its own service agreements with or without association with a third-party administrator or who makes its own service agreements in association with a manufacturer, distributor, or their subsidiaries or affiliates; and (iii) whose service agreements cover only vehicles sold by the dealer to its retail customer; provided that the dealer complies with ~~G.S. 58-1-35 and G.S. 58-1-36.~~ G.S. 66-372 and G.S. 66-373. A motor vehicle dealer who sells a motor vehicle service agreement to a consumer, as defined in 15 U.S.C. § 2301(3), is not deemed to have made a written warranty to the consumer with respect to the motor vehicle sold or to have entered into a service contract with the consumer that applies to the motor vehicle, as provided in 15 U.S.C. § 2308(a), if: (i) the motor vehicle dealer acts as a mere agent of a third party in selling the motor vehicle service agreement; and (ii) the motor vehicle dealer would, after the sale of the motor vehicle service agreement, have no further obligation under the motor vehicle service agreement to the consumer to service or repair the vehicle sold to the consumer at or within 90 days before the dealer sold the motor vehicle service agreement to the consumer.

(b) The following definitions apply in this section and in ~~G.S. 58-1-30, 58-1-35, and 58-1-36:~~ G.S. 66-371, 66-372, and 66-373:

(1) Authorized insurer. – An insurance company authorized to write liability insurance under Articles 7, 16, 21, or 22 of ~~this Chapter.~~ Chapter 58 of the General Statutes.
(2) Distributor. – Defined in G.S. 20-286(3).
(3) Licensed insurer. – An insurance company licensed to write liability insurance under Article 7 or 16 of ~~this Chapter.~~ Chapter 58 of the General Statutes.
(4) Motor vehicle. – Defined in G.S. 20-4.01(23), but also including mopeds as defined in G.S. 20-4.01(27)d1.
(5) Motor vehicle service agreement. – Any contract or agreement indemnifying the motor vehicle service agreement holder against loss caused by failure, arising out of the ownership, operation, or use of a motor vehicle, of a mechanical or other component part of the motor

vehicle that is listed in the agreement. The term does not mean a contract or agreement guaranteeing the performance of parts or lubricants manufactured by the guarantor and sold for use in connection with a motor vehicle where no additional consideration is paid or given to the guarantor for the contract or agreement beyond the price of the parts or lubricants.

(6) Motor vehicle service agreement company. – Any person that issues motor vehicle service agreements and that is not a licensed insurer.

(c) through (g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 730, s. 3."

SECTION 10. G.S. 66-371, as recodified by Section 3 of this act, reads as rewritten:

"§ **66-371. Home appliance service agreement companies.**

(a) This section applies to all home appliance service agreement companies soliciting business in this State, but it does not apply to performance guarantees or warranties made by manufacturers in connection with the sale of new home appliances. This section does not apply to any home appliance dealer licensed to do business in this State (i) whose primary business is the retail sale and service of home appliances; (ii) who makes and administers its own service agreements without association with any other entity; and (iii) whose service agreements cover primarily appliances sold by the dealer to its retail customers, provided that the dealer complies with ~~G.S. 58-1-35 and G.S. 58-1-36.~~ G.S. 66-372 and G.S. 66-373. This section does not apply to any warranty made by a builder or seller of real property relating to home appliances that are sold along with real property. This section does not apply to any issuer of credit cards or charge cards that markets home appliance service agreements as an ancillary part of its business; provided, however, that such issuer maintains insurance in accordance with ~~G.S. 58-1-36.~~ G.S. 66-373.

(b) The following definitions apply in this section:

(1) "Home appliance" means a clothes washing machine or dryer; kitchen appliance; vacuum cleaner; sewing machine; home audio or video electronic equipment; home electronic data processing equipment; home exercise and fitness equipment; home health care equipment; power tools; heater or air conditioner, other than a permanently installed unit using internal ductwork; or other personal consumer goods.

(2) "Home appliance service agreement" means any contract or agreement indemnifying the home appliance service agreement holder against loss caused by failure, arising out of the ownership, operation, or use of a home appliance, of a mechanical or other component part of the home appliance that is listed in the agreement.

(3) "Home appliance service agreement company" means any person that issues home appliance service agreements and that is not a licensed insurer.

(c) through (g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 730, s. 3."

SECTION 11. G.S. 66-372, as recodified by Section 4 of this act, reads as rewritten:

"§ **66-372. Miscellaneous requirements for motor vehicle and home appliance service agreement companies.**

(a) The provisions of this section and ~~G.S. 58-1-36~~ G.S. 66-373 apply to companies specified in ~~G.S. 58-1-25 and G.S. 58-1-30.~~ G.S. 66-370 and G.S. 66-371.

(b) The following definitions apply in this section and in ~~G.S. 58-1-36:~~ G.S. 66-373:

(1) Service agreement. – Includes motor vehicle service agreements and home appliance service agreements.

(2) Service agreement company. – Includes motor vehicle service agreement companies and home appliance service agreement companies.

…

(e) All service agreements used in this State by a service agreement company shall:

(1) Not contain provisions that allow the company to cancel the agreement in its discretion other than for nonpayment of premiums or for a direct violation of the agreement by the consumer where the service agreement states that violation of the agreement would subject the agreement to cancellation;

(2) With respect to a motor vehicle service agreement as defined in ~~G.S. 58-1-25(b)(1),~~ G.S. 66-370(b)(1), provide for a right of assignability by the consumer to a subsequent purchaser before expiration of coverage if the subsequent purchaser meets the same criteria for motor vehicle service agreement acceptability as the original purchaser; and

(3) Contain a cancellation provision allowing the consumer to cancel at any time after purchase and receive a pro rata refund less any claims paid on the agreement and a reasonable administrative fee, not to exceed ten percent (10%) of the amount of the pro rata refund.

…

~~(m) If not submitted electronically, all contracts, literature, advertising materials, letters, and other documents submitted to the Department to comply with the filing requirements of this Chapter or an administrative rule adopted pursuant to this Chapter shall be submitted on paper eight and one-half inches by eleven inches. Brochures and pamphlets shall not be stapled or bound.~~"

SECTION 12. G.S. 66-373, as recodified by Section 5 of this act, reads as rewritten:

"§ **66-373. Insurance policy requirements.**

(a) Each company or person subject to this section shall maintain contractual liability insurance or service agreement reimbursement insurance with an authorized insurer for one hundred percent (100%) of claims exposure, including reported and incurred but not reported claims and claims expenses, on business written in this State unless the company or person:

(1) Maintains an audited net worth of one hundred million dollars ($100,000,000);

(2) Has offered service agreement contracts or warranties, as applicable to the respective company, its parent company, or person, for at least the preceding 10 years; and

(3) Either is required to file and has filed an SEC Form 10K or Form 20-F with the Securities and Exchange Commission (SEC) within the last calendar year or, if the company does not file with the SEC, can produce, upon request, a copy of the company's audited financial statements, which show a net worth of the company or person of at

least one hundred million dollars ($100,000,000). A company or person may utilize its parent company's Form 10-K, Form 20-F, or audited financial statements to satisfy this requirement if the parent company agrees to guarantee the obligations of the company or person relating to service agreement contracts or warranties, as applicable to the respective company or person, sold by the company or person in this State.

(b) All forms relating to insurance policies written by authorized insurers under this section shall be filed with and approved by the Commissioner of Insurance before they may be used for any purpose in this State, irrespective of whether the insurers are licensed insurers.

(c) Each policy shall contain the following provisions:

(1) If the company or person does not fulfill its obligations under service agreements or warranties issued in this State for any reason, including federal bankruptcy or state receivership proceedings, the insurer will pay losses and unearned premium refunds directly to any person making the claim under the service agreement.

(2) The insurer shall assume full responsibility for the administration of claims if the company or person is unable to do so.

(3) The policy is subject to the cancellation, nonrenewal, and renewal provisions of G.S. 58-41-15, 58-41-20, 58-41-25, and 58-41-40.

(4) The policy shall insure all service agreements and warranties that were issued while the policy was in effect, regardless of whether the premium was remitted to the insurer.

(5) If the insurer is fulfilling any service agreement covered by the policy and if the service agreement holder cancels the service agreement, the insurer shall make a full refund of the unearned premium to the consumer pursuant to ~~G.S. 58-1-35(e)(3).~~ G.S. 66-372(e)(3). This subdivision applies only to service agreement companies.

(d) The Commissioner of Insurance may adopt rules, in addition to the requirements of this section, governing the terms and conditions of policy forms for the insurance required by this section.

(e) Persons and companies subject to G.S. 58-1-15, 58-1-20, ~~58-1-25, 58-1-30, and 58-1-42~~ 66-370, 66-371, and 66-374 are subject to and shall comply with this section. ~~The Commissioner may enforce compliance with this section using the provisions of Article 2 of this Chapter.~~"

SECTION 13. G.S. 66-374, as recodified by Section 6 of this act, reads as rewritten:

"§ **66-374. Mechanical breakdown service agreements.**

(a) Except as provided in subsection (c) of this section, all mechanical breakdown service agreement companies soliciting business in this State shall comply with ~~G.S. 58-1-35 and G.S. 58-1-36.~~ G.S. 66-372 and G.S. 66-373.

(b) As used in this section, "mechanical breakdown service agreement companies" include any person that issues mechanical breakdown service agreements and is not a licensed insurer, and "mechanical breakdown service agreements" are applicable to mechanized equipment, including automobiles, riding mowers, scooters, generators, farm implements, logging equipment, road graders, bulldozers, and power equipment not licensed for road use, whether mobile or not.

(c) This section does not apply to performance guarantees, warranties, mechanical breakdown service agreements, or motor vehicle service agreements made by:

(1) A manufacturer.

(2) A distributor.

(3) A subsidiary of a manufacturer or distributor."

SECTION 14. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 15. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 7:10 p.m. on the 20th day of June, 2007.

Session Law 2007-96 **Senate Bill 1246**

AN ACT TO PROHIBIT PLACEMENT OF PROCESSED FOODS IN AREAS WHERE THE WILDLIFE RESOURCES COMMISSION HAS SET AN OPEN SEASON FOR TAKING BLACK BEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-294 is amended by adding a new subsection to read:

"(r) It is unlawful to place processed food products as bait in any area of the State where the Wildlife Resources Commission has set an open season for taking black bears. For purposes of this subsection, the term "processed food products" means any food substance or flavoring that has been modified from its raw components by the addition of ingredients or by treatment to modify its chemical composition or form or to enhance its aroma or taste. The term includes substances modified by sugar, honey, syrups, oils, salts, spices, peanut butter, grease, meat, bones, or blood, as well as extracts of such substances. The term also includes sugary products such as candies, pastries, gums, and sugar blocks, as well as extracts of such products. Nothing in this subsection prohibits the lawful disposal of solid waste or the legitimate feeding of domestic animals, livestock, or birds. The prohibition against taking bears with the use and aid of bait shall not apply to the release of dogs in the vicinity of any food source that is not a processed food product as defined herein. Violation of this subsection constitutes a Class 2 misdemeanor."

SECTION 2. This act becomes effective 1 October 2007.

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 7:11 p.m. on the 20th day of June, 2007.

Session Law 2007-97 **Senate Bill 836**

AN ACT TO RENAME THE FOOD STAMP PROGRAM TO REFLECT THE USE OF ELECTRONIC BENEFIT TRANSFER CARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-110(a) reads as rewritten:

"(a) Subject to the provisions of subsection (b) of this section with respect to prison inmates, any superior or district court judge or clerk of the superior court may authorize a person to sue as an indigent in their respective courts when the person makes affidavit that he or she is unable to advance the required court costs. The clerk of superior court shall authorize a person to sue as an indigent if the person makes the required affidavit and meets one or more of the following criteria:

(1) Receives ~~food stamps.~~electronic food and nutrition benefits.
(2) Receives Work First Family Assistance.
(3) Receives Supplemental Security Income (SSI).
(4) Is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons.
(5) Is represented by private counsel working on the behalf of or under the auspices of a legal services organization under subdivision (4) of this section.
(6) Repealed by Session Laws 2002-126, s. 29A.6(d), effective October 1, 2002.

A superior or district court judge or clerk of superior court may authorize a person who does not meet one or more of these criteria to sue as an indigent if the person is unable to advance the required court costs. The court to which the summons is returnable may dismiss the case and charge the court costs to the person suing as an indigent if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious."

SECTION 2. G.S. 105A-2(2)(c) reads as rewritten:

"c. A sum owed as a result of an intentional program violation or a violation due to inadvertent household error under the ~~Food Stamp~~Food and Nutrition Services Program enabled by ~~Chapter 108A, Article 2, Part 5.~~Part 5 of Article 2 of Chapter 108A of the General Statutes."

SECTION 3. G.S. 108A-25 reads as rewritten:

"(a) The following programs of public assistance are established, and shall be administered by the county department of social services or the Department of Health and Human Services under federal regulations or under rules adopted by the Social Services Commission and under the supervision of the Department of Human Resources:

(1) Repealed by S.L. 1997-443, s. 12.3, effective August 28, 1997.
(2) State-county special assistance for ~~adults;~~adults.
(3) Food ~~stamp program;~~and Nutrition Services.
(4) Foster care and adoption assistance ~~payments;~~payments.
(5) Low income energy assistance program."

SECTION 4. G.S. 108A-25.2 reads as rewritten:

"Individuals convicted of Class H or I controlled substance felony offenses in this State shall be eligible to participate in the Work First Program and ~~food stamp program:~~and the food and nutrition services program:

(1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a

required substance abuse treatment program determined appropriate by the area mental health authority; or

(2) If not committed to custody, six months after the date of conviction if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority.

A county department of social services shall require individuals who are eligible for Work First Program assistance and ~~food stamp~~electronic food and nutrition benefits pursuant to this section to undergo substance abuse treatment as a condition for receiving Work First Program or ~~food stamp~~electronic food and nutrition benefits, if funds and programs are available and to the extent allowed by federal law."

SECTION 5. G.S. 108A-27.3(a)(10a) reads as rewritten:

"(10a) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:

a. Ensure that time limitations on assistance have been computed ~~correctly;~~correctly.

b. Ensure that the family is informed in writing about public assistance benefits, including child care, Medicaid, and ~~food stamps~~food and nutrition services, for which the family is eligible even while cash assistance is no longer ~~available;~~available.

c. Provide for an extension of cash assistance benefits if the family qualifies for an ~~extension; and~~extension.

d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability."

SECTION 6. G.S. 108-27.4(e)(7) reads as rewritten:

"(7) The process by which the county will review all Work First caseloads no later than three months prior to expiration of time limitations for receiving cash assistance to:

a. Ensure that time limitations on assistance have been computed ~~correctly;~~correctly.

b. Ensure that the family is informed in writing about public assistance benefits, including child care, Medicaid, and ~~food stamps~~food and nutrition services, for which the family is eligible even while cash assistance is no longer ~~available;~~available.

c. Provide for an extension of cash assistance benefits if the family qualifies for an ~~extension; and~~extension.

d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability."

SECTION 7. G.S.108A-27.6(a)(10) reads as rewritten:

"(10) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:

a. Ensure that time limitations on assistance have been computed ~~correctly;~~correctly.

b. Ensure that the family is informed about public assistance benefits, including child care, Medicaid, and ~~food stamps~~food and nutrition services, for which the family is eligible even while cash assistance is no longer ~~available;~~available.

c. Provide for an extension of cash assistance benefits if the family qualifies for an ~~extension; and~~extension.

d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability."

SECTION 8. G.S.108A-29(k) reads as rewritten:

"(k) The FEIC shall not be counted as income when eligibility is determined for Work First Program assistance, Medicaid, ~~food stamps~~food and nutrition services, ~~subsidies,~~ public housing, or Supplemental Security Income."

SECTION 9. The title of Part 5 of Article 2 of Chapter 108A of the General Statutes and G.S. 108A-51 reads as rewritten:

"Part 5. Food ~~Stamp Program.~~and Nutrition Services.

"§ **108A-51. Authorization for Food ~~Stamp Program.~~and Nutrition Services.**

The Department is authorized to establish a statewide food ~~stamp~~and nutrition services program as authorized by the Congress of the United States. The Department of Health and Human Services is designated as the State agency responsible for the supervision of ~~such programs.~~the food and nutrition services program. The boards of county commissioners through the county departments of social services are held responsible for the administration and operation of the ~~programs.~~food and nutrition services program."

SECTION 10. G.S. 108A-52 reads as rewritten:

"§ **108A-52. Determination of eligibility.**

Any person who believes that he or another person is eligible to receive ~~food stamps~~electronic food and nutrition benefits may apply for such assistance to the county department of social services in the county in which the applicant resides. The application shall be made in such form and shall contain such information as the Social Services Commission may require. Upon receipt of an application for ~~food stamps~~electronic food and nutrition benefits, the county department of social services shall make a prompt evaluation or investigation of the facts alleged in the application in order to determine the applicant's eligibility for such assistance and to obtain such other information as the Department may require. Upon the completion of such investigation, the county department of social services shall, within a reasonable period of time, determine eligibility."

SECTION 11. G.S. 108A-53 reads as rewritten:

"§ **108A-53. Fraudulent misrepresentation.**

(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any ~~food stamps~~electronic food and nutrition benefit ~~or authorization cards~~ to which that person is not entitled in the amount of four hundred dollars ($400.00) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or

abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any ~~food stamps~~electronic and nutrition benefit ~~or authorization cards~~ to which he is not entitled in an amount more than four hundred dollars ($400.00) shall be guilty of a Class I felony.

(b) Whoever presents, or causes to be presented, ~~food stamps~~electronic food and nutrition benefits ~~or authorization cards~~ for payment or redemption, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Part or the regulations issued pursuant to this Part shall be guilty of a Class 1 misdemeanor.

(c) Whoever receives any ~~food stamps~~electronic food and nutrition benefits for any consumable item knowing that such ~~food stamps~~benefits were procured fraudulently under subsections (a) and/or (b) of this section shall be guilty of a Class 1 misdemeanor.

(d) Whoever receives any ~~food stamps~~electronic food and nutrition benefits for any consumable item whose exchange is prohibited by the United States Department of Agriculture shall be guilty of a Class 1 misdemeanor."

SECTION 12. G.S. 108A-53.1 reads as rewritten:

"§ **108A-53.1. Illegal possession or use of ~~food stamps.~~electronic food and nutrition benefits.**

(a) Any person who knowingly buys, sells, distributes, or possesses with the intent to sell, or distribute ~~food stamp coupons,~~electronic food and nutrition benefits ~~authorization cards,~~ or access devices in any manner contrary to that authorized by this Part or the regulations issued pursuant thereto shall be guilty of a Class H felony.

(b) Any person who knowingly uses, transfers, acquires, alters, or possesses ~~food stamp coupons,~~electronic food and nutrition benefits ~~authorization cards,~~ or access devices in any manner contrary to that authorized by this Part or the regulations issued pursuant thereto, other than as set forth in subsection (a) of this section, shall be guilty of a Class 1 misdemeanor if the value of such ~~food stamp coupons,~~electronic food and nutrition benefits ~~authorization cards,~~ or access devices is less than one hundred dollars ($100.00), or a Class A1 misdemeanor if the value of such ~~food stamp coupons,~~electronic food and nutrition benefits ~~authorization cards,~~ or access devices is equal to at least one hundred dollars ($100.00) but less than five hundred dollars ($500.00), or a Class I felony if the value of such ~~food stamp coupons,~~electronic food and nutrition benefits ~~authorization cards,~~ or access devices is equal to at least five hundred dollars ($500.00) but less than one thousand dollars ($1,000), or a Class H felony if the value of such ~~food stamp coupons,~~electronic food and nutrition benefits ~~authorization cards,~~ or access devices equals or exceeds one thousand dollars ($1,000)."

SECTION 13. G.S.108A-79 reads as rewritten:

"§ **108A-79. Appeals.**

(a) A public assistance applicant or recipient shall have a right to appeal the decision of the county board of social services, county department of social services, or the board of county commissioners granting, denying, terminating, or modifying assistance, or the failure of the county board of social services or county department of social services to act within a reasonable time under the rules and regulations of the Social Services Commission or the Department. Each applicant or recipient shall be notified in writing of his right to appeal upon denial of his application for assistance and at the time of any subsequent action on his case.

(b) In cases involving termination or modification of assistance, no action shall become effective until 10 workdays after notice of this action and of the right to appeal is mailed or delivered by hand to the recipient; provided, however, termination or modification of assistance may be effective immediately upon the mailing or delivery of notice in the following circumstances:

(1) When the modification is beneficial to the recipient; or

(2) When federal regulations permit immediate termination or modification upon mailing or delivery of notice and the Social Services Commission or the Department of Health and Human Services promulgates regulations adopting said federal law or regulations. When federal and State regulations permit immediate termination or modification, the recipient shall have no right to continued assistance at the present level pending a hearing, as would otherwise be provided by subsection (d) of this section.

(c) The notice of action and the right to appeal shall comply with all applicable federal and State law and regulations; provided, such notice shall, at a minimum contain a clear statement of:

(1) The action which was or is to be taken;

(2) The reasons for which this action was or is to be taken;

(3) The regulations supporting this action;

(4) The applicant's or recipient's right to both a local and State level hearing, or to a State level hearing in the case of the ~~food stamp program~~food and nutrition services program, on the decision to take this action and the method for obtaining these hearings;

(5) The right to be represented at the hearings by a personal representative, including an attorney obtained at the applicant's or recipient's expense;

(6) In cases involving termination or modification of assistance, the recipient's right upon timely request to continue receiving assistance at the present level pending an appeal hearing and decision on that hearing.

An applicant or recipient may give notice of appeal by written or oral statement to the county department of social services, which shall record such notice by completing a form developed by the Department.

Such notice of appeal must be given within 60 days from the date of the action, or 90 days from the date of notification in the case of the ~~food stamp program~~food and nutrition services program. Failure to give timely notice of appeal constitutes a waiver of the right to a hearing except that, for good cause shown, the county department of social services may permit an appeal notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(d) If there is such timely appeal in cases not involving disability, in the first instance the hearing shall consist of a local appeal hearing before the county director or a designated representative of the county director, provided whoever hears the local appeal shall not have been involved directly in the initial decision giving rise to the appeal. If there is such timely appeal in cases involving disability, the county director or a designated representative of the county director shall within five days of the request for an appeal forward the request to the Department of Health and Human Services, and the Department shall designate a hearing officer who shall promptly hold a hearing in the county according to the provisions of subsections (i) and (j) of this section. In cases

involving termination or modification of assistance (other than cases of immediate termination or modification of assistance pursuant to subsection (b)(2) of this section), the recipient shall continue to receive assistance at the present level pending the decision at the initial hearing, whether that be the local appeal hearing decision or, in cases involving questions of disability, the Department of Health and Human Services hearing decision, provided that in order to continue receiving assistance pending the initial hearing decision the recipient must request a hearing on or before the effective date of the termination or modification of assistance.

(e) The local appeal hearing shall be held not more than five days after the request for it is received. The recipient may, for good cause shown as defined by rule or regulation of the Social Services Commission or the Department, petition the county department of social services, in writing, for a delay, but in no event shall the local appeal hearing be held more than 15 days after the receipt of the request for hearing. At the local appeal hearing:

(1) The appellant and the county department may be represented by personal representatives, including attorneys, obtained at their expense.

(2) The appellant or his personal representative and the county department shall present such sworn evidence and law or regulations as bear upon the case. The hearing need not be recorded or transcribed, but the director or his representative shall summarize in writing the substance of the hearing.

(3) The appellant or his personal representative and the county department may cross-examine witnesses and present closing arguments summarizing their views of the case and the law.

(4) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine the contents of his case file for the matter pending together with those portions of other public assistance or social services case files which pertain to the appeal, and all documents and records which the county department of social services intends to use at the hearing. Those portions of the public assistance or social services case file which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to the public assistance or social services case file the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules and regulations promulgated pursuant to G.S. 108A-80.

(f) The director or his designated representative shall make the decision based upon the evidence presented at the hearing and all applicable regulations, and shall prepare a written statement of his decision citing the regulations and evidence to support it. This written statement of the decision will be served by certified mail on the appellant within five days of the local appeal hearing. If the decision terminating or modifying the appellant's benefits is affirmed, the assistance shall be terminated or

modified, not earlier than the date the decision is mailed, and any assistance received during the time of the appeal is subject to recovery.

(g) If the appellant is dissatisfied with the decision of the local appeal hearing, he may within 15 days of the mailing notification of the decision take a further appeal to the Department. However, assistance may not be received pending this further appeal. Failure to give timely notice of further appeal constitutes a waiver of the right to a hearing before an official of the Department except that, for good cause shown, the Department may issue an order permitting a review of the local appeal hearing notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(h) Subsections (d)-(g) of this section shall not apply to the ~~food stamp program~~food and nutrition services program. The first appeal for ~~a food stamp~~an electronic food and nutrition benefit recipient or his representative shall be to the Department. Pending hearing, the recipient's assistance shall be continued at the present level upon timely request.

(i) If there is an appeal from the local appeal hearing decision, or from ~~a food stamp~~an electronic food and nutrition benefit recipient or his representative where there is no local hearing, or if there is an appeal of a case involving questions of disability the county director shall notify the Department according to its rules and regulations. The Department shall designate a hearing officer who shall promptly hold a de novo administrative hearing in the county after giving reasonable notice of the time and place of such hearing to the appellant and the county department of social services. Such hearing shall be conducted according to applicable federal law and regulations and Article 3, Chapter 150B, of the General Statutes of North Carolina; provided the Department shall adopt rules and regulations to ensure the following:

(1) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine his case file and all documents and records which the county department of social services intends to use at the hearing together with those portions of other public assistance or social services case files which pertain to the appeal. Those portions of the public assistance or social services case files which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to portions of the public assistance or social services case file, the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-80.

(2) At the appeal hearing, the appellant and personnel of the county department of social services may present such sworn evidence, law and regulations as bear upon the case.

(3) The appellant and county department shall have the right to be represented by the person of his choice, including an attorney obtained at his own expense.

(4) The appellant and county department shall have the right to cross-examine the other party as well as make a closing argument summarizing his view of the case and the law.

(5) The appeal hearing shall be recorded; however, no transcript will be prepared unless a petition for judicial review is filed pursuant to subsection (k) herein, in which case, the transcript will be made a part of the official record. In the absence of the filing of a petition for a judicial review, the recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed.

(6) Notwithstanding G.S. 150B-28 or any other provision of State law, discovery shall be no more extensive or formal than that required by federal law and regulations applicable to such hearings.

(j) After the administrative hearing, the hearing officer shall prepare a proposal for decision, citing pertinent law, regulations, and evidence, which shall be served upon the appellant and the county department of social services or their personal representatives. The appellant and the county department of social services shall have the opportunity to present oral and written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who is to make the final decision. The final decision shall be based on, conform to, and set forth in detail the relevant evidence, pertinent State and federal law and regulations, and matters officially noticed. The decision shall be rendered not more than 90 days, or 45 days in the case of the ~~food stamp program~~food and nutrition services program, from the date of request for the hearing, unless the hearing was delayed at the request of the appellant. If the hearing was delayed at the appellant's request, the decision may only be delayed for the length of time the appellant requested a delay. The final decision shall be served upon the appellant and upon the county department of social services by certified mail, with a copy furnished to either party's attorney of record. In the absence of a petition for judicial review filed pursuant to subsection (k) herein, the final decision shall be binding upon the appellant, the county department of social services, the county board of social services, and the board of county commissioners.

(k) Any applicant or recipient who is dissatisfied with the final decision of the Department may file, within 30 days of the receipt of notice of such decision, a petition for judicial review in superior court of the county from which the case arose. Failure to file a petition within the time stated shall operate as a waiver of the right of such party to review, except that, for good cause shown, a judge of the superior court resident in the district or holding court in the county from which the case arose may issue an order permitting a review of the agency decision under this Chapter notwithstanding such waiver. The hearing shall be conducted according to the provisions of Article 4, Chapter 150B, of the North Carolina General Statutes. The court shall, on request, examine the evidence excluded at the hearing under G.S. 108A-79(e)(4) or G.S. 108A-79(i)(1) and if the evidence was improperly excluded, the court shall consider it. Notwithstanding the foregoing provisions, the court may take testimony and examine into the facts of the case, including excluded evidence, to determine whether the final decision is in error under federal and State law, and under the rules and regulations of the Social Services Commission or the Department of Health and Human Services. Furthermore, the court shall set the matter for hearing within 15 days from the filing of the record under G.S. 150B-47 and after reasonable written notice to the Department of Health and Human Services and the applicant or recipient. Nothing in this subsection shall be

construed to abrogate any rights that the county may have under Article 4 of Chapter 150B.

(l) In the event of conflict between federal law or regulations and State law or regulations, the federal law or regulations shall control."

SECTION 14. G.S. 113-351(d) reads as rewritten:

"(d) Resident Subsistence Unified Inland/Coastal Recreational Fishing License Waiver. – A county department of social services shall issue a Resident Subsistence Unified Inland/Coastal Recreational Fishing License Waiver to an individual who receives benefits from Medicaid, ~~Food Stamps~~Food and Nutrition Services, or Work First Family Assistance through the county department of social services and who requests a waiver. This waiver shall be issued at no charge. This waiver is valid for a period of one year from the date of issuance. This waiver shall be issued only to an individual who is a resident of the State. This waiver authorizes the waiver holder to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, except for public mountain trout waters, and to engage in recreational fishing in coastal fishing waters. County departments of social services shall supply the Wildlife Resources Commission with the name, mailing address, and telephone number of each individual who receives a waiver."

SECTION 15. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 7:12 p.m. on the 20th day of June, 2007.

Session Law 2007-98 **Senate Bill 1178**

AN ACT AUTHORIZING THE USE OF MASTER METERS FOR ELECTRIC AND NATURAL GAS SERVICE IN HOTELS OR MOTELS THAT HAVE BEEN CONVERTED INTO CONDOMINIUMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-151.42 reads as rewritten:

"§ **143-151.42. Prohibition of master meters for electric and natural gas service.**

From and after September 1, 1977, in order that each occupant of an apartment or other individual dwelling unit may be responsible for his own conservation of electricity and gas, it shall be unlawful for any new residential building, as hereinafter defined, to be served by a master meter for electric service or natural gas service. Each individual dwelling unit shall have individual electric service with a separate electric meter and, if it has natural gas, individual natural gas service with a separate natural gas meter, which service and meters shall be in the name of the tenant or other occupant of said apartment or other dwelling unit. No electric supplier or natural gas supplier, whether regulated public utility or municipal corporation or electric membership corporation supplying said utility service, shall connect any residential building for electric service or natural gas service through a master meter, and said electric or natural gas supplier shall serve each said apartment or dwelling unit by separate service and separate meter and shall bill and charge each individual occupant of said separate apartment or dwelling unit for said electric or natural gas service. A new residential building is hereby defined for the purposes of this section as any building for which a building permit is issued on or after September 1, 1977, which includes two or more apartments or other family dwelling

units. Provided, however, that any owner or builder of a multi-unit residential building who desires to provide central heat or air conditioning or central hot water from a central furnace, air conditioner or hot water heater which incorporates solar assistance or other designs which accomplish greater energy conservation than separate heat, hot water, or air conditioning for each dwelling unit, may apply to the North Carolina Utilities Commission for approval of said central heat, air conditioning or hot water system, which may include a central meter for electricity or gas used in said central system, and the Utilities Commission shall promptly consider said application and approve it for such central meters if energy is conserved by said design. This section shall apply to any dwelling unit normally rented or leased for a minimum period of one month or longer, including apartments, condominiums and townhouses, but shall not apply to hotels, motels, hotels or motels that have been converted into condominiums, dormitories, rooming houses or nursing homes, or homes for the elderly."

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

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 7:16 p.m. on the 20th day of June, 2007.

Session Law 2007-99 **Senate Bill 982**

AN ACT PERTAINING TO THE REQUIREMENT FOR AN IMMUNIZATION CERTIFICATE FROM CERTAIN COLLEGE STUDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-155.1 reads as rewritten:

"(a) Except as otherwise provided in this ~~subsection,~~section, no person shall attend a college or university, whether public, private, or religious, unless a certificate of immunization or a record of immunization from a high school located in North Carolina indicating that the person has received immunizations required by G.S. 130A-152 is presented to the college or university. ~~This section shall not apply to educational institutions established under Chapter 115D of the General Statutes, or to students registering only in off-campus courses, or to students attending night or weekend classes only, or to students taking a course load of four credit hours or less and residing off-campus.~~ The person shall present a certificate or record of immunization on or before the date the person first registers for a quarter or semester during which the student will reside on the campus or first registers for more than four traditional day credit hours to the registrar of the college or university. If a certificate or record of immunization is not in the possession of the college or university on the date of first registration, the college or university shall present a notice of deficiency to the ~~person.~~student. The ~~person~~student shall have 30 calendar days from the date of the ~~person's~~student's first registration to obtain the required immunization. If immunization requires a series of doses and the period necessary to give the vaccine at standard intervals extends beyond the date of the first registration, the student shall be allowed to attend the college or university upon written certification by a physician that the standard series is in progress. The physician shall state the time period needed to complete the series. Upon termination of this time period, the college or university shall not permit the ~~person~~student to continue in attendance unless the required immunization has been obtained.

(b) The college or university shall maintain on file immunization records for all ~~persons~~students attending the school which contain the information required for a certificate of immunization as specified in G.S. 130A-154. These certificates shall be open to inspection by the Department and the local health department during normal business hours. When a ~~person~~student transfers to another college or university, the college or university which the ~~person~~student previously attended shall, upon request, send a copy of the ~~person's~~student's immunization record at no charge to the college or university to which the ~~person~~student has transferred.

(c) Within 60 calendar days after the commencement of a new school year, the college or university shall file an immunization report with the Department. The report shall be filed on forms prepared by the Department and shall state the number of ~~persons~~students attending the school or facility, the number of ~~persons~~students who had not obtained the required immunization within 30 days of their first attendance, the number of ~~persons~~students who received a medical exemption and the number of ~~persons~~students who received a religious exemption.

(d) Repealed by Session Laws 1999-110, s. 5.

(e) The provisions of this section shall not apply to:

(1) Educational institutions established under Chapter 115D of the General Statutes.

(2) Students residing off-campus and registering for any combination of:

a. Off-campus courses.

b. Evening courses.

c. Weekend courses.

d. No more than four traditional day credit hours in on-campus courses."

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 7:17 p.m. on the 20th day of June, 2007.

Session Law 2007-100 **House Bill 1243**

AN ACT TO CREATE A PROCEDURE BY WHICH DETERMINATION IS MADE TO RESTRAIN JUVENILES IN THE COURTROOM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 24 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"**§ 7B-2402.1. Restraint of juveniles in courtroom.**

At any hearing authorized or required by this Subchapter, the judge may subject a juvenile to physical restraint in the courtroom only when the judge finds the restraint to be reasonably necessary to maintain order, prevent the juvenile's escape, or provide for the safety of the courtroom. Whenever practical, the judge shall provide the juvenile and the juvenile's attorney an opportunity to be heard to contest the use of restraints before the judge orders the use of restraints. If restraints are ordered, the judge shall make findings of fact in support of the order."

SECTION 2. This act becomes effective October 1, 2007, and applies to all hearings conducted on or after that date.

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 7:18 p.m. on the 20th day of June, 2007.

Session Law 2007-101 **House Bill 382**

AN ACT TO PROVIDE THAT ELECTIONS IN THE TOWN OF HEMBY BRIDGE SHALL BE DETERMINED BY PLURALITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.1 of the Charter of Hemby Bridge, being S.L. 1998-143, reads as rewritten:

"Sec. 4.1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan ~~election and runoff~~ plurality basis and results determined as provided in G.S. ~~163-293.~~ 163-292."

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

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-102 **House Bill 1202**

AN ACT AUTHORIZING THE CITY OF SALISBURY TO REGULATE THE DEMOLITION OF STRUCTURES WITHIN THE CITY'S HISTORIC DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-400.14, the City of Salisbury may adopt an ordinance providing that no structure within the City's Downtown Local Historic District ('H' Historic District Overlay, as adopted by the City Council on October 2, 2001) may be demolished without a permit issued by the City Council. The City Council shall consider the following in deciding whether to issue a permit: (i) the location of the structure within the historic district; (ii) the state of repair of the structure; (iii) the architectural and historical significance of the structure; (iv) the overall impact of the demolition of the structure on the historic district; and (vi) the issuance of a certificate of appropriateness for the demolition by the City's Historic Preservation Committee.

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

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-103 **Senate Bill 940**

AN ACT TO REQUIRE THE RETIREMENT SYSTEM DIVISION OF THE DEPARTMENT OF STATE TREASURER TO PROVIDE DIRECT ACCESS TO INFORMATION REQUESTED BY THE FISCAL RESEARCH DIVISION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-32.01 reads as rewritten:

"§ **120-32.01. Information to be supplied.**

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the Research, Fiscal Research, and Bill Drafting Divisions any information or records requested by them. Except when accessibility is prohibited by a federal statute, federal regulation or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and the Fiscal Research Division access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the State Personnel Management Information System by the Research and Bill Drafting Divisions shall only be through the Fiscal Research Division.

(c) Consistent with subsection (a) of this section and notwithstanding any other law relating to privacy of personnel records, the Retirement Systems Division of the Department of State Treasurer shall furnish the Fiscal Research Division direct online read-only access to active and retired member information or records maintained by the Retirement Systems Division in online information systems. Direct online read-only access shall not include access to medical records of individual members. Nothing in this subsection shall limit the provisions of subsection (a) of this section."

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

In the General Assembly read three times and ratified this the 11th day of June, 2007.

Became law upon approval of the Governor at 3:27 p.m. on the 21st day of June, 2007.

Session Law 2007-104 **Senate Bill 118**

AN ACT TO ALLOW THE GOVERNOR TO DECLARE A VACANCY IN THE OFFICE OF DISTRICT COURT JUDGE, SUPERIOR COURT JUDGE, JUDGE OF THE COURT OF APPEALS, JUSTICE OF THE SUPREME COURT, OR DISTRICT ATTORNEY WHEN THE INCUMBENT DOES NOT HAVE THE LEGAL RIGHT TO EXERCISE ITS FUNCTIONS.

The General Assembly of North Carolina enacts:

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

"Article 31B.

"Declaration of Vacancy, Suspension of Salary.

"**§ 7A-410. Vacancy exists on disbarment.**

When a judge of the district court, judge of the superior court, judge of the Court of Appeals, justice of the Supreme Court, or a district attorney is no longer authorized to practice law in the courts of this State, the Governor shall declare the office vacant. Prior to making such declaration, the Governor shall notify the justice, judge, or district attorney at least 10 days in advance of taking such action and shall afford the justice, judge, or district attorney the opportunity to be heard on the matter. For purposes of this

Article, the term 'no longer authorized to practice law' means that the person has been disbarred or suspended and all appeals under G.S. 84-28 have been exhausted.

"§ **7A-410.1. Suspension of salary.**

When a justice, judge, or district attorney has been disbarred or suspended from the practice of law under G.S. 84-28 but the office has not been declared vacant under G.S. 7A-410, the salary of the justice, judge, or district attorney is suspended immediately. If the order of disbarment or suspension is reversed on appeal, the salary shall be paid retroactively from the date the salary was suspended."

SECTION 2. G.S. 1-524 reads as rewritten:

"§ **1-524. Possession of office not disturbed pending trial.**

(a) In any civil action pending in any of the courts of this State in which the title to an office is involved, the defendant being in the possession of the office and discharging the duties thereof shall continue therein pending the action, and no judge shall make a restraining order interfering with or enjoining such officer in the premises. The officer shall, notwithstanding any such order, continue to exercise the duties of the office pending the litigation, and receive the emoluments thereof.

(b) This section shall not apply to any person subject to Article 31B of Chapter 7A of the General Statutes."

SECTION 3. This act is effective when it becomes law and does not apply to persons elected to or serving in the capacity of justice or judge on or before January 1, 1981, that were not authorized to practice law at the time of their election or at the time they began serving in the capacity of justice or judge.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 4:25 p.m. on the 21st day of June, 2007.

Session Law 2007-105 **Senate Bill 880**

AN ACT TO PROVIDE THAT A BOND FORFEITURE SHALL BE SET ASIDE IF THE DEFENDANT FAILED TO APPEAR BECAUSE THE DEFENDANT WAS INCARCERATED ANYWHERE IN THE UNITED STATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-544.5 reads as rewritten:

"§ **15A-544.5. Setting aside forfeiture.**

(a) Relief Exclusive. – There shall be no relief from a forfeiture except as provided in this section. The reasons for relief are those specified in subsection (b) of this section. The procedures for obtaining relief are those specified in subsections (c) and (d) of this section. Subsections (f), (g), ~~(h), and (i)~~ and (h) of this section apply regardless of the reason for relief given or the procedure followed.

(b) Reasons for Set Aside. – A forfeiture shall be set aside for any one of the following reasons, and none other:

(1) The defendant's failure to appear has been set aside by the court and any order for arrest issued for that failure to appear has been recalled, as evidenced by a copy of an official court record, including an electronic record.

(2) All charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking dismissal

with leave, as evidenced by a copy of an official court record, including an electronic record.

(3) The defendant has been surrendered by a surety on the bail bond as provided by G.S. 15A-540, as evidenced by the sheriff's receipt provided for in that section.

(4) The defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in ~~question.~~ question as evidenced by a copy of an official court record, including an electronic record.

(5) The defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate.

(6) The defendant was incarcerated in a unit of the North Carolina Department of Correction and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to ~~appear.~~appear as evidenced by a copy of an official court record or a copy of a document from the Department of Correction or Federal Bureau of Prisons, including an electronic record.

(7) The defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was filed.

(c) Procedure When Failure to Appear Is Stricken. – If the court before which a defendant's appearance was secured by a bail bond enters an order striking the defendant's failure to appear and recalling any order for arrest issued for that failure to appear, that court may simultaneously enter an order setting aside any forfeiture of that bail bond. When an order setting aside a forfeiture is entered, the defendant's further appearances shall continue to be secured by that bail bond unless the court orders otherwise.

(d) Motion Procedure. – If a forfeiture is not set aside under subsection (c) of this section, the only procedure for setting it aside is as follows:

(1) At any time before the expiration of 150 days after the date on which notice was given under G.S. 15A-544.4, the defendant or any surety on a bail bond may make a written motion that the forfeiture be set aside, stating the reason and attaching the evidence specified in subsection ~~(a)~~ (b) of this section.

(2) The motion is filed in the office of the clerk of superior court of the county in which the forfeiture was entered, and a copy is served, under G.S. 1A-1, Rule 5, on the district attorney for that county and the county board of education.

(3) Either the district attorney or the county board of education may object to the motion by filing a written objection in the office of the clerk and serving a copy on the moving party.

(4) If neither the district attorney nor the board of education has filed a written objection to the motion by the tenth day after the motion is served, the clerk shall enter an order setting aside the forfeiture.

(5) If either the district attorney or the county board of education files a written objection to the motion, then not more than 30 days after the objection is filed a hearing on the motion and objection shall be held in the county, in the trial division in which the defendant was bonded to appear.

(6) If at the hearing the court allows the motion, the court shall enter an order setting aside the forfeiture.

(7) If at the hearing the court does not enter an order setting aside the forfeiture, the forfeiture shall become a final judgment of forfeiture on the later of:

a. The date of the hearing.

b. The date of final judgment specified in G.S. 15A-544.6.

(8) If at the hearing the court determines that the documentation required to be attached pursuant to subdivision (1) of this subsection is fraudulent or was not attached to the motion at the time the motion was filed, the court may order monetary sanctions against the surety filing the motion, unless the court also finds that the failure to attach the required documentation was unintentional. This subdivision shall not limit the criminal prosecution of any individual involved in the creation or filing of any fraudulent documentation.

(e) Only One Motion Per Forfeiture. – No more than one motion to set aside a specific forfeiture may be considered by the court.

(f) No More Than Two Forfeitures May Be Set Aside Per Case. – In any case in which the State proves that the surety or the bail agent had notice or actual knowledge, before executing a bail bond, that the defendant had already failed to appear on two or more prior occasions, no forfeiture of that bond may be set aside for any reason.

(g) No Final Judgment After Forfeiture Is Set Aside. – If a forfeiture is set aside under this section, the forfeiture shall not thereafter ever become a final judgment of forfeiture or be enforced or reported to the Department of Insurance.

(h) Appeal. – An order on a motion to set aside a forfeiture is a final order or judgment of the trial court for purposes of appeal. Appeal is the same as provided for appeals in civil actions. When notice of appeal is properly filed, the court may stay the effectiveness of the order on any conditions the court considers appropriate."

SECTION 2. G.S. 15A-544.3(b)(9) reads as rewritten:

"(b) The forfeiture shall contain the following information:

…

(9) The following notice: "TO THE DEFENDANT AND EACH SURETY NAMED ABOVE: The defendant named above has failed to appear as required before the court in the case identified above. A forfeiture for the amount of the bail bond shown above was entered in favor of the State against the defendant and each surety named above on the date of forfeiture shown above. This forfeiture will be set aside if, on or before the final judgment date shown above, satisfactory

evidence is presented to the court that one of the following events has occurred: (i) the defendant's failure to appear has been stricken by the court in which the defendant was required to appear and any order for arrest that was issued for that failure to appear is recalled, (ii) all charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking a voluntary dismissal with leave, (iii) the defendant has been surrendered by a surety or bail agent to a sheriff of this State as provided by law, (iv) the defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in ~~question,~~question as evidenced by a copy of an official court record, including an electronic record, (v) the defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate, ~~or~~ (vi) the defendant was incarcerated in a unit of the North Carolina Department of Correction and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to ~~appear.~~appear as evidenced by a copy of an official court record or a copy of a document from the Department of Correction or Federal Bureau of Prisons, or (vii) the defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was filed. The forfeiture will not be set aside for any other reason. If this forfeiture is not set aside on or before the final judgment date shown above, and if no motion to set it aside is pending on that date, the forfeiture will become a final judgment on that date. The final judgment will be enforceable by execution against the defendant and any accommodation bondsman and professional bondsman on the bond. The final judgment will also be reported to the Department of Insurance. Further, no surety will be allowed to execute any bail bond in the above county until the final judgment is satisfied in full."

SECTION 3. This act becomes effective October 1, 2007, and applies to forfeitures entered on or after that date.

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 11:35 a.m. on the 25th day of June, 2007.

Session Law 2007-106 **Senate Bill 947**

AN ACT TO MAKE TECHNICAL, CONFORMING, AND OTHER CHANGES TO THE UNIFORM TRUST CODE AND OTHER RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 28A-13-3(a)(5) reads as rewritten:

"(a) Except as qualified by express limitations imposed in a will of the decedent or a court order, and subject to the provisions of G.S. 28A-13-6 respecting the powers of joint personal representatives, a personal representative has the power to perform in a reasonable and prudent manner every act which a reasonable and prudent ~~man~~ person would perform incident to the collection, preservation, liquidation or distribution of a decedent's estate so as to accomplish the desired result of settling and distributing the decedent's estate in a safe, orderly, accurate and expeditious manner as provided by law, including ~~but not limited to~~ the powers specified in the following subdivisions:

…

(5) To deposit, as a fiduciary, funds of the estate in a bank, including a bank operated by the personal representative ~~upon compliance with the provisions of G.S. 36A-63.~~ pursuant to G.S. 53-163.1.

…."

SECTION 1.1. G.S. 32A-3 is amended by adding a new subsection to read:

"§ **32A-3. Provisions not exclusive; reference to Chapter ~~32B.~~32B; limitations on authority.**

(a) The provisions of this Article are not exclusive and shall not bar the use of any other or different form of power of attorney desired by the parties concerned.

(b) A power of attorney under the provisions of this Article may refer to Chapter 32B as the same is set out in Chapter 626 of the 1983 Session Laws.

(c) Notwithstanding any other provision of this Chapter, no attorney-in-fact may exercise powers described in G.S. 36C-6-602.1(a) to alter the designation of beneficiaries to receive property on the settlor's death under the settlor's existing estate plan. This subsection shall not impair the authority of an attorney-in-fact to make gifts of the principal's property, as provided in Articles 2A and 2B of this Chapter."

SECTION 1.2. G.S. 32A-14 is amended by adding a new subsection to read:

"§ **32A-14. Powers of attorney executed under the provisions of G.S. 47-115.1; reference to Chapter ~~32B.~~32B; limitations on authority.**

(a) A power of attorney executed prior to October 1, 1988, pursuant to G.S. 47-115.1 as it existed prior to October 1, 1983, shall be deemed to be a durable power of attorney as defined in G.S. 32A-8.

(b) A power of attorney under the provisions of this Article may refer to Chapter 32B as the same is set out in Chapter 626 of the 1983 Session Laws.

(c) Notwithstanding any other provision of this Chapter, no attorney-in-fact may exercise powers described in G.S. 36C-6-602.1(a) to alter the designation of beneficiaries to receive property on the settlor's death under the settlor's existing estate plan. This subsection shall not impair the authority of an attorney-in-fact to make gifts of the principal's property, as provided in Articles 2A and 2B of this Chapter."

SECTION 1.3. G.S. 36B-8 reads as rewritten:

"§ **36B-8. Conflict with other law.**

To the extent that the provisions of this Chapter are inconsistent with the provisions of either Chapter ~~36A~~ 36C or Chapter 55A, the provisions of this Chapter shall control. The provisions of this Chapter shall not apply to the University of North Carolina."

SECTION 2. G.S. 36C-1-103 reads as rewritten:

"§ **36C-1-103. Definitions.**

~~In this~~ The following definitions apply in this Chapter:

(1) ~~"Action", with respect~~ Action. – When applicable to an act of a trustee, includes a failure to act.

(2) ~~"Ascertainable standard" means a~~ Ascertainable standard. – A standard relating to an individual's health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code.

(3) ~~"Beneficiary" means a~~ Beneficiary. – A person who:

a. Has a present or future beneficial interest in a trust, vested or contingent, including the owner of an interest by assignment or transfer; or

b. In a capacity other than that of trustee, holds a power of appointment over trust property.

(4) ~~"Charitable trust" means a~~ Charitable trust. – A trust, including a split-interest trust as described in section 4947 of the Internal Revenue Code, created for a charitable purpose described in G.S. 36C-4-405(a).

(5) ~~"Environmental law" means a~~ Environmental law. – A federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(6) ~~"General guardian" means a general guardian as that term is~~ General guardian. – As defined in G.S. 35A-1202(7).

(7) ~~"Guardian of the estate" means a guardian of the estate as that term is~~ Guardian of the estate. – As defined in G.S. 35A-1202(9).

(8) ~~"Guardian of the person" means a guardian of the person as that term is~~ Guardian of the person. – As defined in G.S. 35A-1202(10).

(9) ~~"Interests of the beneficiaries" means the~~ Interests of the beneficiaries. – The beneficial interests provided in the terms of the trust.

(10) ~~"Internal Revenue Code" means the~~ Internal Revenue Code. – The Internal Revenue Code of 1986, as amended from time to time. Each reference to a provision of the Internal Revenue Code shall include any successor to that provision.

(11) ~~"Jurisdiction", with respect~~ Jurisdiction. – When applicable to a geographic area, includes a state or country.

(12) ~~"Person" means an~~ Person. – An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(13) ~~"Power of withdrawal" means a~~ Power of withdrawal. – A presently exercisable general power of appointment other than a power:

a. Exercisable by a trustee and limited by an ascertainable standard; or

b. Exercisable by another person only upon consent of the trustee or a person holding an adverse interest.

(13a) Principal place of administration. – The trustee's usual place of business where the records pertaining to the trust are kept or the trustee's residence if the trustee has no usual place of business. In the case of cotrustees, the principal place of administration is one of the following:

a. The usual place of business of the corporate trustee if there is a corporate cotrustee.

b. The usual place of business or residence of any of the cotrustees if there is no corporate cotrustee.

(14) ~~"Property" means anything~~ Property. – Anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

(15) ~~"Qualified beneficiary" means a~~ Qualified beneficiary. – A living beneficiary ~~who,~~ to whom, on the date the beneficiary's qualification is ~~determined:~~ determined, any of the following apply:

a. Is a distributee or permissible distributee of trust income or ~~principal;~~ principal.

b. Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in sub-subdivision a. of this subdivision terminated on that date without causing the trust to ~~terminate; or~~ terminate.

c. Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(16) ~~"Revocable", as applied~~ Revocable. – When applicable to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(17) ~~"Settlor" means a~~ Settlor. – A person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(18) ~~"Spendthrift provision" means a~~ Spendthrift provision. – A term of a trust that restrains both voluntary and involuntary transfer of a beneficiary's interest.

(19) ~~"State" means a~~ State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

(20) ~~"Terms of a trust" means the~~ Terms of a trust. – The manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or established in a judicial proceeding.

(21) ~~"Trust instrument" means an~~ Trust instrument. – An instrument executed by the settlor that contains terms of the trust, including any amendments to the instrument, and any modifications permitted by court order.

(22) ~~"Trustee" includes~~ Trustee. – Includes an original, additional, and successor trustee, and a cotrustee, whether or not appointed or

confirmed by a court. The term does not include trustees in mortgages and deeds of trusts."

SECTION 3. G.S. 36C-1-105(b) reads as rewritten:

"(b) The terms of a trust prevail over any provision of this Chapter except:

(1) The requirements for creating a trust;

(2) The duty of a trustee to act in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries;

(3) The requirement that a trust and its terms be for the benefit of its beneficiaries, and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;

(4) The power of the court to modify or terminate a trust under G.S. 36C-4-410 through G.S. 36C-4-416;

(5) The effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in Article 5 of this Chapter;

(6) The effect of an exculpatory term under G.S. 36C-10-1008;

(7) The rights under G.S. 36C-10-1010 through G.S. 36C-10-1013 of a person other than a trustee or beneficiary;

(8) Periods of limitation for commencing a judicial proceeding;

(9) The power of the court to take any action and exercise any jurisdiction as may be necessary in the interests of justice; ~~and~~

(10) The subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in G.S. 36C-2-203 and ~~G.S. 36C-2-204.~~ G.S. 36C-2-204; and

(11) The requirement that the exercise of the powers described in G.S. 36C-6-602.1(a) shall not alter the designation of beneficiaries to receive property on the settlor's death under that settlor's existing estate plan."

SECTION 4. G.S. 36C-1-107 reads as rewritten:

"(a) The meaning and effect of the terms of a trust are determined ~~by:~~ by any of the following:

(1) The law of the jurisdiction designated in the terms unless the designation of that jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at ~~issue; or~~ issue.

(2) In the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

(b) Notwithstanding subsection (a) of this section, the rights of a person other than a trustee or beneficiary are governed by G.S. 36C-10-1010 through G.S. 36C-10-1013."

SECTION 5. G.S. 36C-1-109(a) reads as rewritten:

"(a) Subject to subsection (d) of this section, notice ~~Notice~~ to a person under this Chapter or the sending of a document to a person under this Chapter must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document.

(1) Permissible methods of notice or methods for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message.

(2) Notice shall be deemed to be given upon the occurrence of any of the following:

a. When personally delivered by hand to the person.

b. When transmitted by facsimile.

c. When placed in the hands of a nationally recognized courier service for delivery.

d. When received by the person if sent by registered or certified United States mail, return receipt requested.

e. Three days after depositing the notice in a regularly maintained receptacle for the deposit of United States mail if sent by regular United States mail.

(3) Notice by any means other than those described in subdivision (2) of this subsection shall be deemed to be given for all purposes upon the date of actual receipt."

SECTION 6. G.S. 36C-2-203(a) reads as rewritten:

"(a) The clerks of superior court of this State have original jurisdiction over all proceedings concerning the internal affairs of trusts. Except as provided in subdivision (9) of this subsection, the clerk of superior court's jurisdiction is exclusive. Proceedings concerning the internal affairs of the trust are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and trust beneficiaries, to the extent that those matters are not otherwise provided for in the governing instrument. These include proceedings:

(1) To appoint or remove a ~~trustee;~~ trustee, including the appointment and removal of a trustee pursuant to G.S. 36C-4-414(b).

(2) ~~To permit a trustee to resign or renounce; however, unless the trustee is required to account to the clerk of superior court, when the governing instrument names or provides a procedure to name a successor trustee, and the successor trustee is willing to serve, no trustee is required to initiate a proceeding to resign or renounce as trustee;~~ To approve the resignation of a trustee.

(3) To review trustees' fees under Article 6 of Chapter 32 of the General Statutes and review and settle interim or final ~~accounts;~~ accounts.

(4) To (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust as provided in ~~G.S. 37A-1-104.3;~~ G.S. 37A-1-104.3.

(5) To transfer a trust's principal place of ~~administration;~~ administration.

(6) To require a trustee to provide bond and determine the amount of the bond, excuse a requirement of bond, reduce the amount of bond, release the surety, or permit the substitution of another bond with the same or different ~~sureties;~~ sureties.

(7) To make orders with respect to a trust for the care of animals as provided in ~~G.S. 36C-4-408;~~ G.S. 36C-4-408.

(8) To make orders with respect to a noncharitable trust without an ascertainable beneficiary as provided in ~~G.S. 36C-4-409; and~~ G.S. 36C-4-409.

(9) To ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust, including questions of

construction of trust instruments, and to determine the existence or nonexistence of trusts created other than by will and the existence or nonexistence of any immunity, power, privilege, duty, or right. ~~Upon motion of a party, the clerk of superior court may determine that a proceeding to determine an issue listed in this subdivision shall be originally heard by the superior court division of the General Court of Justice.~~ Any party may file a notice of transfer of a proceeding pursuant to this subdivision to the superior court division of the General Court of Justice as provided in G.S. 36C-2-205(g1). In the absence of a transfer to Superior Court, Article 26 of Chapter 1 of the General Statutes shall apply to a trust proceeding pending before the clerk of superior court to the extent consistent with this Article."

SECTION 7. G.S. 36C-2-203(c) reads as rewritten:

"(c) Nothing in this section affects the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes. ~~In the event either the petitioner or respondent in a trust proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either party may move for a transfer of the proceeding to the superior court division of the General Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In absence of removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to a trust proceeding to the extent consistent with this Article.~~"

SECTION 8. G.S. 36C-2-204 reads as rewritten:

"§ **36C-2-204. Venue.**

In any trust ~~proceeding or action,~~ proceeding, whether brought before the clerk of superior court or the superior court division of the General Court of Justice, the following rules apply notwithstanding any other applicable Rule of Civil Procedure or provision of Chapter 1 of the General Statutes:

(1) If the trustee is required to account to the clerk of superior court, then unless the terms of the governing instrument provide otherwise, venue for proceedings under G.S. 36C-2-203 involving trusts is the place where the accountings are filed.

(2) If the trustee is not required to account to the clerk of superior court, then unless the terms of the governing instrument provide otherwise, venue for proceedings under G.S. 36C-2-203 involving trusts ~~is:~~ is either of the following:

a. In the case of an inter vivos trust, in any county of this State in which the trust has its principal place of administration or where any beneficiary ~~resides; or~~ resides.

b. In the case of a testamentary trust, in any county of this State in which the trust has its principal place of administration, where any beneficiary resides, or in which the testator's estate was administered.

~~(3) Unless otherwise designated in the governing instrument, the principal place of administration of the trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if the trustee has no such place of business. In the case of cotrustees, the principal place of administration, if not otherwise designated in the governing instrument, is:~~

~~a. The usual place of business of the corporate trustee if there is but one corporate or cotrustee; or~~

~~b. The usual place of business or residence of any of the cotrustees.~~

(4) If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee is in any county of this State in which a beneficiary resides, in any county in which trust property is located, in the county of this State specified in the trust instrument, if any county is so specified, or ~~if the trust is created by will,~~ in the case of a testamentary trust, in the county in which the decedent's estate was or is being administered."

SECTION 9. G.S. 36C-2-205 is amended by adding a new subsection to read:

"(g1) Notice of Transfer. – A notice to transfer a trust proceeding brought pursuant to G.S. 36C-2-203(a)(9) must be served within 30 days after the moving party is served with a copy of the pleading requesting relief pursuant to G.S. 36C-2-203(a)(9). Failure to timely serve a notice of transfer of a trust proceeding is a waiver of any objection to the clerk of superior court's exercise of jurisdiction over the trust proceeding then pending before the clerk. When a notice of transfer is duly served and filed, the clerk shall transfer the proceeding to the appropriate court. The proceeding after the transfer is subject to the provisions of the General Statutes and to the rules that apply to actions initially filed in the court to which the proceeding was transferred."

SECTION 9.1. G.S. 36C-2-205 is amended by adding a new subsection to read:

"(i) Notice to Attorney General. – In every trust proceeding with respect to a charitable trust, the Attorney General shall be notified and given an opportunity to be heard."

SECTION 10. G.S. 36C-2-205(h) reads as rewritten:

"(h) Orders Upon ~~Consolidation/Joinder.~~ Consolidation/Joinder/Transfer. – Upon the consolidation of a trust proceeding and ~~civil action or~~ a civil action, joinder of claims under subsection (f) or (g) of this ~~section~~ section, or transfer to the Superior Court Division of the General Court of Justice pursuant to subsection (g1) of this section, the clerk of superior court or the judge may make ~~such~~ appropriate orders ~~as appropriate~~ to protect the interests of the parties and to avoid unnecessary costs or delay. Notwithstanding the ~~consolidation or joinder~~ consolidation, joinder of claims under subsection (f) or (g) of this section, or transfer to the Superior Court Division of the General Court of Justice under subsection (g1) of this section, the clerk of superior court's exclusive jurisdiction as set forth in ~~G.S. 36C-2-203(a)~~ G.S. 36C-2-203(a)(1) through (8) shall not be stayed unless so ordered by the court."

SECTION 11. G.S. 36C-3-303 reads as rewritten:

"§ **36C-3-303. Representation by fiduciaries, parents, and other persons.**

To the extent that there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or ~~dispute:~~ dispute involving a trust:

(1) A general guardian or a guardian of the estate may represent and bind the estate that the guardian controls.

(2) ~~A guardian of the person may represent and bind the ward if a general guardian or guardian of the estate of the ward's estate has not been appointed.~~

(3) An agent under a power of attorney having authority to act with respect to the particular question or dispute may represent and bind the principal.

(4) A trustee may represent and bind the beneficiaries of the ~~trust.~~ trust unless the question or dispute involves the internal affairs of the trust.

(5) A personal representative of a decedent's estate may represent and bind persons interested in the estate.

(6) A parent may represent and bind the parent's minor child if a general ~~guardian,~~ guardian or guardian of the ~~estate, or guardian of the person~~ estate for the child has not been appointed. If a disagreement arises between parents seeking to represent the same minor child, the parent who is a beneficiary of the trust that is the subject of the representation is entitled to represent the minor child or, if no parent is a beneficiary of the trust that is the subject of the representation, a parent who is a lineal descendant of the settlor is entitled to represent the minor child, or if no parent is a lineal descendant of the settlor, a guardian ad litem shall be appointed to represent the minor child.

(7) A person may represent and bind that person's unborn issue."

SECTION 12. G.S. 36C-3-304 reads as rewritten:

"§ **36C-3-304. Representation by person having substantially identical interest.**

Unless otherwise represented under this Article, a minor, an ~~incapacitated~~ incompetent or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent that there is no conflict of interest between the representative and the person ~~represented.~~ represented with respect to the particular question or dispute."

SECTION 13. G.S. 36C-3-305(a) reads as rewritten:

"(a) If the court determines that an interest is not represented under this Article, or that the otherwise available representation might be inadequate, the court may appoint a guardian ad litem to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, ~~incapacitated~~ an incompetent or unborn individual, or a person whose identity or location is unknown. A guardian ad litem may be appointed to represent several persons or interests."

SECTION 14. G.S. 36C-4-401 reads as rewritten:

"§ **36C-4-401. Methods of creating trust.**

A trust may be created ~~by:~~ by any of the following methods:

(1) Transfer of property by a settlor to a person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's ~~death;~~ death including either of the following:

a. The devise or bequest to the trustee of the trust as provided in G.S. 31-47.

b. The designation of the trust as beneficiary of life insurance or other death benefits as provided in G.S. 36C-4-401.1.

(2) Declaration by the owner of property that the owner holds identifiable property as trustee unless the transfer of title of that property is otherwise required by ~~law; or~~ law.

(3) Exercise of a power of appointment in favor of a trustee."

SECTION 15. G.S. 36C-4-409 reads as rewritten:

"§ **36C-4-409. Noncharitable trust without ascertainable beneficiary.**

Except as otherwise provided in G.S. 36C-4-408 or by another statute, the following rules apply:

(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than 21 years. If the trust is still in existence after 21 years, the trust shall terminate. The unexpended trust property shall be transferred in the following order:
   a. As directed in the trust instrument.
   b. If the trust was created in a preresiduary clause in the settlor's will or in a codicil to the settlor's will, under the residuary clause in the settlor's will.
   c. If no taker is produced by the application of sub-subdivisions a. or b. of this subdivision, to the settlor, if then living, otherwise to the settlor's heirs as determined under Chapter 29 of the General Statutes as of the date of the settlor's death.

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court.

(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent that the court determines that the value of the trust property exceeds the amount required for the intended use. ~~Except as otherwise provided in the terms of the trust,~~ The property not required for the intended use ~~must be distributed to the settlor, if then living, or otherwise to the settlor's successors in interest.~~ shall be distributed under subdivision (1) of this section.

(4) Notwithstanding subdivisions (1) through (3) of this section, a trust, contract, or other arrangement to provide for the care of a cemetery lot, grave, crypt, niche, mausoleum, columbarium, grave marker, or monument is valid without regard to remoteness of vesting, duration of the arrangement, or lack of definite beneficiaries to enforce the trust, provided that the trust, contract, or other arrangement meets the requirements of G.S. 28A-19-10, Article 4 of Chapter 65 of the General Statutes, Article 9 of Chapter 65 of the General Statutes, or other applicable law. This section does not repeal or supersede G.S. 36C-4-413."

SECTION 16. G.S. 36C-4-410 reads as rewritten:

"§ **36C-4-410. Modification or termination of trust; proceedings for approval or disapproval.**

(a) In addition to the methods of termination prescribed by G.S. 36C-4-411 through G.S. 36C-4-414, a trust terminates to the extent that the trust is revoked or expires under its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(b) A trustee or beneficiary may commence a proceeding to approve or disapprove a proposed modification or termination under G.S. 36C-4-411 through ~~G.S. 36C-4-416, or trust combination or division under G.S. 36C-4-417.~~ G.S. 36C-4-416. A settlor may commence a proceeding to approve or disapprove a proposed modification or termination under G.S. 36C-4-411. The settlor of a charitable

trust may maintain a proceeding to modify the trust under G.S. 36C-4-413. A trustee is a necessary party to any proceeding under this ~~section.~~ Article.

(c) Repealed by Session Laws 2006-259, s. 13(c), effective October 1, 2006."

SECTION 17. G.S. 36C-4-411 reads as rewritten:

"§ **36C-4-411. Modification or termination of noncharitable irrevocable trust by consent.**

(a) ~~A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries,~~ If the settlor and all beneficiaries of a noncharitable irrevocable trust consent, they may compel the modification or termination of the trust without the approval of the court even if the modification or termination is inconsistent with a material purpose of the trust. If any beneficiary (i) is a minor or incompetent or a person who is unborn or whose identity or location is unknown and (ii) is unable to be represented under Article 3 of this Chapter, the settlor or any competent adult beneficiary or the representative of any beneficiary properly represented under Article 3 of this Chapter may institute a proceeding before the court to appoint a guardian ad litem. The court shall allow the modification or termination if the court finds that, following the appointment of a guardian ad litem, all beneficiaries or their representatives have consented. A settlor's power to consent to a trust's modification or termination may be exercised ~~by~~ by:

(1) ~~an~~ An agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the ~~trust; by the~~ trust.

(2) The settlor's general guardian or the guardian of the estate with the approval of the court supervising the ~~guardianship if an agent is not so authorized; or by the settlor's guardian of the person with the approval of the court supervising the guardianship if an agent is not so authorized and a general guardian or guardian of the estate has not been appointed.~~ guardianship.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the beneficiaries, if the court concludes that modification is consistent with a material purpose of the trust.

(c) Where the beneficiaries of a noncharitable irrevocable trust seek to compel a termination of the trust and the continuance of the trust is necessary to carry out a material purpose of the trust, or where the beneficiaries seek to compel a modification of the trust in a manner that is inconsistent with its material purpose, the trust may be modified or terminated, in the discretion of the court, only if the court determines that the reason for modifying or terminating the trust under the circumstances substantially outweighs the interest in accomplishing a material purpose of the trust.

(d) If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection (a), (b), or (c) of this section, the modification or termination may be approved by the court if the court is satisfied ~~that:~~ that all of the following apply:

(1) If all of the beneficiaries had consented, the trust could have been modified or terminated under this ~~section; and~~ section.

(2) The interests of a beneficiary who does not consent will be adequately protected.

(e) Repealed by Session Laws 2006-259, s. 13(d), effective October 1, 2006.

(f) In determining the class of beneficiaries whose consent is necessary to modify or terminate a trust under this section, the presumption of fertility is rebuttable.

(g) If a trust instrument provides for the disposition of property to a class of persons described only as "heirs" or "next of kin" of any person or uses other words that describe the class of all persons who would take under the rules of intestacy, the court may limit the class of beneficiaries whose consent is needed to compel the modification or termination of the trust to the beneficiaries who are reasonably likely to take under the circumstances."

SECTION 17.1. G.S. 36C-4-413(c) is repealed.

SECTION 18. G.S. 36C-4-418 reads as rewritten:

"§ **36C-4-418. Distribution upon termination of trust.**

Upon termination of a trust under ~~G.S. 36C-4-411,~~ G.S. 36C-4-411(a), the trustee shall distribute the trust property as agreed by the beneficiaries. Upon termination of a trust under ~~G.S. 36C-4-412 or G.S. 36C-4-414,~~ G.S. 36C-4-411(b) or (c), the trustee shall distribute the trust property in accordance with the order entered by the court. Upon termination of a trust under G.S. 36C-4-412(a) or G.S. 36C-4-414, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust. ~~If any trust property becomes distributable to a minor or incompetent under this Article, it may be distributed:~~

~~(1) To the guardian of the estate or general guardian of the beneficiary;~~

~~(2) In accordance with the North Carolina Uniform Transfer to Minors Act, Chapter 33A of the General Statutes; or~~

~~(3) In accordance with the North Carolina Uniform Custodial Trust Act, Chapter 33B of the General Statutes.~~"

SECTION 19. G.S. 36C-5-501(b) reads as rewritten:

"(b) ~~This~~ Subsection (a) of this section shall not ~~apply~~ apply, and a trustee shall have no liability to any creditor of a beneficiary for any distributions made to or for the benefit of the beneficiary, to the extent that a beneficiary's ~~interest:~~ interest is protected or restricted by any of the following:

(1) ~~Is subject to a~~ A spendthrift ~~provision;~~ provision.

(2) ~~Is a~~ A discretionary trust interest as defined in ~~G.S. 36C-5-504(a)(2); or~~ G.S. 36C-5-504(a)(2).

(3) ~~Is a~~ A protective trust interest as described in G.S. 36C-5-508."

SECTION 20. G.S. 36C-5-505 reads as rewritten:

"§ **36C-5-505. Creditor's claim against settlor.**

(a) ~~Whether~~ Subject to the other applicable law, whether or not the terms of a trust contain a spendthrift provision or the interest in the trust is a discretionary trust interest as defined in G.S. 36C-504(a)(2) or a protective trust interest as defined in G.S. 36C-5-508, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(2) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(2a) Notwithstanding subdivision (2) of this subsection, the trustee's discretionary authority to pay directly to the taxing authorities or to

reimburse the settlor for any tax on trust income or trust principal that is payable by the settlor under the law imposing the tax shall not be considered to be an amount that can be distributed to or for the settlor's benefit, and a creditor or assignee of the settlor shall not be entitled to reach any amount.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent that the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances, unless barred by ~~G.S. 28A-19-3.~~ applicable law.

(b) For purposes of this section, with respect to a power of withdrawal over property of a trust exercisable by a holder of the power other than the settlor of the trust, both of the following shall apply:

(1) The property subject to the exercise of the power shall be subject to the claims of the creditors of the holder only when and to the extent that the holder exercises the power.

(2) The lapse, release, or waiver of a power ~~of withdrawal~~ shall not be deemed to be an exercise of the power and shall not cause the holder to be treated as a settlor of the trust."

SECTION 21. G.S. 36C-6-602(e) is repealed.

SECTION 22. G.S. 36C-6-602(f) is repealed.

SECTION 23. Article 6 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ 36C-6-602.1. Exercise of settlor's powers with respect to revocable trust by agent or guardian.**

(a) An agent acting under a power of attorney may exercise any of the following powers of the settlor with respect to a revocable trust only to the extent expressly authorized by the terms of the trust or the power of attorney:

(1) Revocation of the trust.

(2) Amendment of the trust.

(3) Additions to the trust.

(4) Direction to dispose of property of the trust.

(5) The creation of the trust, notwithstanding G.S. 36C-4-402(a)(1) and (2).

The exercise of the powers described in this subsection shall not alter the designation of beneficiaries to receive property on the settlor's death under that settlor's existing estate plan.

(b) A general guardian or a guardian of the estate of the settlor may exercise the powers of the settlor with respect to a revocable trust as provided in G.S. 35A-1251(24)."

SECTION 24. G.S. 36C-6-603 reads as rewritten:

"§ **36C-6-603. Settlor's ~~powers; powers of withdrawal.~~ control of revocable trust.**

(a) While a trust is revocable, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor. If a trustee is a settlor, the trustee's actions are presumed to be taken at the direction of the settlor.

(b) If a revocable trust has more than one settlor, the duties of the trustee are owed to all of the settlors."

SECTION 25. Article 6 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ 36C-6-605. Failure of disposition of property of a trust by lapse or otherwise.**

(a) If a beneficiary under a revocable trust predeceases the execution of the trust or the settlor or is treated as having predeceased the settlor, and if the beneficiary is a grandparent of or a descendant of a grandparent of the settlor, then the issue of the predeceased beneficiary who survive the settlor shall take in place of the deceased beneficiary. The deceased beneficiary's issue shall take the deceased beneficiary's share in the same manner that the issue would take as heirs of the deceased beneficiary under the intestacy provisions in effect at the time of the settlor's death. The provisions of this section apply whether the disposition of property is to an individual, to a class, or is a part of the residue of the trust. In the case of the disposition to a class, the issue shall take whatever share the deceased beneficiary would have taken had the deceased beneficiary survived the settlor. In the event the deceased class member leaves no issue, the deceased beneficiary's share shall devolve upon the members of the class who survived the settlor and the issue of any deceased members taking by substitution.

(b) If the provisions of subsection (a) of this section do not apply to the disposition of property that fails, the property shall pass to the beneficiaries in proportion to their share of the residue of the trust. If the disposition is part of the residue of the trust, it shall augment the shares of the other residuary beneficiaries, including the shares of any substitute takers under subsection (a) of this section. If there are no residuary beneficiaries, then the property shall pass by intestacy."

SECTION 26. Article 6 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ 36C-6-606. Revocation of provisions in revocable trust by divorce or annulment; revival.**

Dissolution of the settlor's marriage by absolute divorce or annulment after executing a revocable trust revokes all provisions in the trust in favor of the settlor's former spouse, including, but not by way of limitation, any provision conferring a general or special power of appointment on the former spouse and any appointment of the former spouse as trustee. Property prevented from passing to the former spouse because of revocation by divorce or absolute annulment passes as if the former spouse failed to survive the settlor, and other provisions conferring some power or office on the former spouse are interpreted as if the former spouse failed to survive the settlor. If provisions are revoked solely by this section, they are revived by the settlor's remarriage to the former spouse. The reference to "former spouse" in this section includes a purported former spouse."

SECTION 26.1 Article 6 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ 36C-6-607. Modification or termination of a revocable trust.**

(a) A revocable trust may be modified or terminated by the court pursuant to any of the methods for modification or termination of an irrevocable trust set forth in G.S. 36C-4-411(b) or (c), 36C-4-412, 36C-4-415, or 36C-4-416.

(b) The settlor is a necessary party to any proceeding brought to modify or terminate a revocable trust."

SECTION 27. G.S. 36C-7-703(f) is repealed.

SECTION 28. G.S. 36C-7-703(g) reads as rewritten:

"(g) ~~Each~~ A trustee shall exercise reasonable ~~care~~ care in connection with matters for which the trustee is given authority under the terms of a trust to:

(1) Avoid enabling a cotrustee to commit a serious breach of trust; and

(2) Compel a cotrustee to redress a serious breach of trust."

SECTION 29. G.S. 36C-7-703(h) reads as rewritten:

"(h) Notwithstanding subsection ~~(f) or~~ (g) of this ~~section, a trustee who has not joined in an action approved by a majority of the other trustees is not liable for the action. Notwithstanding subsection (f) or (g) of this section, a dissenting trustee who joins in an action at the direction of the majority of the trustees but who notified in writing any cotrustee of the dissent at or before the time of the action is not liable for the action, unless that trustee had knowledge that the action taken involved intentional misconduct or was taken with an intention to directly or indirectly provide an improper personal benefit to one or more trustees approving the action.~~ section, a cotrustee is not liable for the action of a majority of the other trustees if either of the following apply:

(1) The trustee does not join in an action approved by a majority of the other trustees.

(2) The dissenting trustee joins in an action necessary to carry out the decision of the majority of the trustees and notifies in writing the cotrustees of the dissent at or before joining in the action, unless the trustee had knowledge that the action taken involved intentional misconduct or was taken with an intention to directly or indirectly provide an improper personal benefit to one or more trustees approving the action."

SECTION 30. G.S. 36C-7-704(d) reads as rewritten:

"(d) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:

(1) By a person designated in the terms of the trust or appointed under the terms of the trust to act as successor trustee;

(2) By a person selected by majority agreement of the qualified beneficiaries, if the trust is a split-interest charitable trust;

(2a) By a person selected by majority agreement of the charitable organizations expressly designated to receive distributions under the terms of the trust; or

(3) By a person appointed by the court."

SECTION 31. G.S. 36C-8-802(d) reads as rewritten:

"(d) A transaction between a trustee and a beneficiary that does not concern trust property, but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary, and from which the trustee obtains an ~~advantage,~~ advantage and which is outside the ordinary course of the trustee's business or on terms and conditions substantially less favorable than those the trustee generally offers similarly situated customers, is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary."

SECTION 32. G.S. 36C-8-802(f) reads as rewritten:

"(f) Notwithstanding subsection (c) of this section:

(1) An investment by a trustee in securities of an investment company, investment trust, or pooled investment vehicle in which the trustee or its affiliate has an investment, or to which the trustee, or its affiliate, provides services for compensation, is not presumed to be affected by a conflict between personal and fiduciary interests if the investment

otherwise complies with the prudent investor rule of Article 9 of this Chapter. The investment company, investment trust, or pooled investment vehicle may compensate the trustee for providing those services out of fees charged to the trust if the trustee at least annually notifies the persons entitled under G.S. 36C-8-813 to receive a copy of the trustee's annual report of the rate and method by which the compensation was determined; and

(2) Payment made by a trustee to an attorney, broker, accountant, or agent for services performed on behalf of the trust in the ordinary course of business is not considered to be affected by a conflict between the trustee's personal and fiduciary interests if the payment is consistent with payments generally made ~~in the community~~ for the same or similar services."

SECTION 33. G.S. 36C-8-802(h) reads as rewritten:

"(h) This section does not preclude any of the following ~~transactions, if fair to the beneficiaries:~~ transactions:

(1) An agreement between a trustee and a beneficiary relating to the appointment or compensation of the ~~trustee;~~ trustee.

(2) Payment of ~~reasonable~~ compensation to which the ~~trustee;~~ trustee is entitled under G.S. 36C-7-708.

(3) A transaction that is fair to the beneficiaries between a trust and another trust, decedent's estate, or guardianship, or similar relationship of which the trustee is a fiduciary or in which a beneficiary has an ~~interest;~~ interest.

(4) A deposit of trust money in a regulated financial-service institution operated by the trustee or an affiliate of the ~~trustee; or~~ trustee.

(5) An advance by the trustee of money for the protection of the trust."

SECTION 34. G.S. 36C-8-808(a) reads as rewritten:

"(a) While a trust is revocable, the trustee may follow a direction of the settlor that is not authorized by or is contrary to the terms of the trust, even if by doing so (i) the trustee exceeds the authority granted to the trustee under the terms of the trust, or (ii) the trustee would otherwise violate a duty the trustee owes under the trust."

SECTION 34.1. G.S. 36C-8-810(d) reads as rewritten:

"(d) If the trustee maintains records clearly indicating the respective interests, a trustee may invest and administer as a whole the property of two or more separate trusts."

SECTION 35. G.S. 36C-8-813 reads as rewritten:

"§ **36C-8-813. Duty to inform and report.**

(a) The trustee is under a ~~duty to a qualified beneficiary to give that beneficiary upon request and at reasonable times complete and accurate information as to the nature and amount of the trust property and to permit the beneficiary, or the beneficiary's representative, to inspect the subject matter of the trust and the accounts and other documents relating to the trust.~~ duty to do all of the following:

(1) Provide reasonably complete and accurate information as to the nature and amount of the trust property, at reasonable intervals, to any qualified beneficiary who is a distributee or permissible distributee of trust income or principal.

(2) In response to a reasonable request of any qualified beneficiary:

a. Provide a copy of the trust instrument.

b. Provide reasonably complete and accurate information as to the nature and amount of the trust property.

c. Allow reasonable inspections of the subject matter of the trust and the accounts and other documents relating to the trust.

(b) Notwithstanding subsection (a) of this section:

(1) The duty of the trustee under subsection (a) of this section shall not include informing any beneficiary in advance of transactions relating to the trust property.

(2) A trustee is considered to have discharged the trustee's duty under subdivision (1) of subsection (a) of this section as to a qualified beneficiary for matters disclosed by a report sent at least annually and at termination of the trust to the beneficiary that describes the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, and lists the trust assets and their respective market values, including estimated values of assets with uncertain values. No presumption shall arise that a trustee who does not comply with this subdivision failed to discharge the trustee's duty under subdivision (1) of subsection (a) of this section.

(c) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. With respect to future reports and other information, a beneficiary may withdraw a waiver previously given.

~~(d) Subsection (b) of this section applies only to a trust created under a trust instrument executed on or after the effective date of this Chapter.~~"

SECTION 36. G.S. 36C-8-814(b) reads as rewritten:

"(b) Subject to subsection (d) of this section, and unless the terms of the trust ~~expressly~~ indicate by an express reference to this subsection that a rule in this subsection does not apply:

(1) A person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power that would, except for this subsection, constitute in whole or in part a general power of appointment may not exercise that power in favor of the trustee/beneficiary, the trustee/beneficiary's estate, the trustee/beneficiary's creditors, or the creditors of the trustee/beneficiary's estate.

(2) Notwithstanding subdivision (1) of this subsection, if the trust confers on the trustee the power to make discretionary distributions to or for the trustee's personal ~~benefit,~~ benefit that would, except for this subsection, constitute in whole or in part a general power of appointment, the trustee may exercise the power in accordance with an ascertainable standard.

(3) The trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

(4) Any power conferred upon the trustee in the trustee's capacity as a trustee to allocate receipts and expenses as between income and principal in the trustee's own favor must be exercised in accordance with the provisions of Chapter 37A of the General Statutes, the Uniform Principal and Income Act of 2003.

For purposes of this subsection, a "general power of appointment" means any power that would cause the income to be taxed to the trustee in his individual capacity under section 678 of the Internal Revenue Code and any power that would be a general power of appointment, in whole or in part, under section 2041(b)(1) or section 2514(c) of the Internal Revenue Code."

SECTION 37. G.S. 36C-8-816 reads as rewritten:

"§ **36C-8-816. Specific powers of trustee.**

Without limiting the authority conferred by G.S. 36C-8-815, a trustee may:

…

(19) Pledge trust property to guarantee loans made by others to ~~a~~ any beneficiary;

(19a) Guarantee loans made by others to ~~a~~ any beneficiary;

(19b) Pledge trust property to guarantee loans made by others to ~~a~~ any proprietorship, partnership, limited liability company, business trust, corporation, venture, agricultural operation, or other form of business or enterprise in which the trust or any beneficiary has an ownership interest.

(19c) Guarantee loans made by others to a proprietorship, partnership, limited liability company, business trust, corporation, venture, agricultural operation, or other form of business or enterprise in which the trust or any beneficiary has an ownership interest.

…

(21) Pay an amount distributable to a beneficiary ~~who is under a legal disability~~ regardless of whether the beneficiary is a minor or incompetent or ~~who~~ whether the trustee reasonably believes ~~is incapacitated,~~ the beneficiary to be incompetent, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or if the beneficiary is a minor or incompetent or a person the trustee reasonably believes to be incompetent, by:

a. Paying it to the beneficiary's general guardian or the guardian of the beneficiary's ~~estate or, if the beneficiary does not have a general guardian or guardian of the beneficiary's estate, the guardian of the beneficiary's person;~~ estate;

b. Paying it to a custodian under a uniform transfer to minors act or custodial trustee under a uniform custodial trust act and, for that purpose, creating a custodianship or custodial trust for the benefit of the beneficiary;

c. Paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

d. Managing it as a separate fund on the beneficiary's behalf.

A trustee making payments under this subdivision does not have any duty to see to the application of the payments so made, if the trustee exercised due care in the selection of the person, including ~~the~~ a minor or incompetent, to whom the payments were made, and the receipt of that person shall be full acquittance to the ~~trustee;~~ trustee. Notwithstanding the foregoing, if a mandatory distribution is to be paid to a beneficiary who is not a minor or incompetent or a person the trustee reasonably believes to be incompetent, the distribution may be

applied for the beneficiary's benefit only with the beneficiary's consent;

…."

SECTION 37.1. Article 9 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ 36C-9-903.1. Duties as to life insurance.**

(a) Notwithstanding the provisions of this Article, the duties of a trustee with respect to acquiring or retaining a contract of insurance upon the life of the settlor, or the lives of the settlor and the settlor's spouse, do not include a duty (i) to determine whether any such contract is or remains a proper investment; (ii) to exercise policy options, including investment options, available under any such contract; or (iii) to diversify any such contract. A trustee is not liable to the beneficiaries of the trust or to any party for any loss arising from the absence of those duties upon the trustee.

(b) The trustee of a trust described under subsection (a) of this section established prior to October 1, 1995, shall notify the settlor in writing that, unless the settlor provides written notice to the contrary to the trustee within 60 days of the trustee's notice, the provisions of subsection (a) of this section shall apply to the trust. Subsection (a) of this section shall not apply if, within 60 days of the trustee's notice, the settlor notifies the trustee that subsection (a) of this section shall not apply."

SECTION 38. G.S. 32-53 reads as rewritten:

"**§ 32-53. Definitions.**

The following definitions apply in this Article:

~~(1) "Beneficiary" means (i) all living persons who are currently receiving or who are eligible to receive distributions of income or principal of the trust and (ii) all living persons who would be entitled to income and/or principal of the trust if the trust were to terminate at the time of the giving of the notice referred to in G.S. 32-55 (without regard to the exercise of any power of appointment).~~

~~(2) "Representative" means, with respect to a beneficiary who is under a legal disability, the beneficiary's agent under a durable power of attorney, general guardian, guardian of the estate, or guardian of the person of a beneficiary, and the parent of a minor beneficiary.~~

~~(3) "Trust" is as defined in G.S. 36A-22.1(5).~~

(1) Legal disability. – A person under a legal disability is a person who is a minor, incompetent, or unborn individual, or whose identity or location is unknown.

(2) Qualified beneficiary. – As defined in G.S. 36C-1-103(15). With respect to a charitable trust defined in G.S. 36C-1-103(4), the term includes (i) a charitable organization described in G.S. 36C-1-110 as having the rights of a qualified beneficiary; or (ii) if there is no such charitable organization, the Attorney General.

(3) Representative. – A person who may represent and bind another as provided in Article 3 of Chapter 36C of the General Statutes, the provisions of which shall apply for purposes of this Article.

(4) Trust. – A trust to which Chapter 36C of the General Statutes applies as provided in G.S. 36C-1-102."

SECTION 39. G.S. 32-55 reads as rewritten:

"**§ 32-55. Notice.**

(a) ~~The trustee shall~~ If the terms of the trust do not specify the trustee's compensation, the trustee may, in the trustee's discretion, give written notice to all qualified beneficiaries of each proposed payment of compensation if the annual amount of compensation exceeds four-tenths of one percent (4/10 of 1%) of the principal value of the assets of the trust on the last day of the trust accounting year. The notice shall contain a statement that the qualified beneficiaries have 20 days from when notice is given to file a proceeding for review of the reasonableness of the compensation with the clerk of superior court in accordance with Article 2 of Chapter 36C of the General Statutes.

(b) In lieu of giving written notice of each proposed payment of compensation under subsection (a) of this section, the trustee may give written notice to all qualified beneficiaries of the amount of compensation to be paid to the trustee on a periodic basis or of the method of computation of the compensation. The trustee shall not be required to give additional notice to the qualified beneficiaries unless the amount to be paid to the trustee on a periodic basis or the method of computation of the compensation changes.

(c) If a qualified beneficiary is under a legal disability, notice shall be ~~deemed to be given to the beneficiary only if notice is~~ given to the representative of the beneficiary. ~~If the trustee is the representative of the beneficiary, no notice shall be deemed to have been given to the beneficiary.~~ If a representative of a qualified beneficiary is not available without court order, notice shall be deemed given under this section if there is at least (i) one qualified beneficiary described in G.S. 36C-1-103(15) a. or b. who is not under a legal disability or a representative of a qualified beneficiary so described; and (ii) one qualified beneficiary described in G.S. 36C-1-103(15)c. who is not under a legal disability or a representative of a qualified beneficiary so described.

(d) ~~The written notice required under this section shall be deemed to be given as follows: (i) when personally delivered by hand to the person, (ii) when transmitted by facsimile or e-mail with confirmation of transmission, (iii) when placed in the hands of a nationally recognized courier service for delivery, (iv) when received by the person if sent by registered or certified United States mail, return receipt requested, (v) three days after depositing the same in a regularly maintained receptacle for the deposit of United States mail if sent by regular United States mail. Notices delivered by any other means shall be deemed to be delivered, given, and received for all purposes as of the date of the actual receipt.~~ The provisions of G.S. 36C-1-109 regarding notices to persons under Chapter 36C of the General Statutes shall apply for purposes of notices under this Article."

SECTION 40. G.S. 32-56 reads as rewritten:

"§ **32-56. Payment of compensation without court order.**

The trustee is authorized to pay the compensation provided for in G.S. 32-54 without prior approval of the clerk of superior court only if:

(1) The annual amount of compensation does not exceed four-tenths of one percent (4/10 of 1%) of the principal value of the assets of the trust on the last day of the trust accounting year; or

(2) ~~No beneficiary~~ Notice has been given pursuant to G.S. 32-55 and no qualified beneficiary or representative of a qualified beneficiary has initiated a proceeding under G.S. 32-57 for review of the reasonableness of the compensation within 20 days after notice has been given by the trustee in accordance with G.S. 32-55."

SECTION 41. G.S. 32-57(a) reads as rewritten:

"(a) ~~The trustee or any beneficiary~~ If the terms of the trust do not specify the trustee's compensation, the trustee or any qualified beneficiary, or representative of a qualified beneficiary, may initiate a proceeding under Article 2 of Chapter 36C of the General Statutes for review of the reasonableness of any compensation or expense reimbursement and for the approval or denial of the payment of compensation or expense reimbursement. A beneficiary may initiate a proceeding even though the 20-day period referred to in G.S. 32-56(2) has expired."

SECTION 42. G.S. 32-58 reads as rewritten:

"§ **32-58. Reimbursement for expenses incurred.**

In addition to the compensation referred to in G.S. 32-54, the trustee shall be entitled to reimbursement out of the assets of the trust for expenses properly incurred or advanced in the administration of the trust and shall be empowered to pay the expenses from the assets of the trust without prior approval of the clerk of superior court. The court may allow reimbursement of other expenses incurred or advanced to which the trustee is entitled in equity and good conscience. The trustee shall have a lien on trust property to secure reimbursement, with reasonable interest, of expenses owed under this section."

SECTION 43. G.S. 32-71(c) and (d) are repealed.

SECTION 44. G.S. 37A-1-104(c)(8) reads as rewritten:

"(c) A trustee shall not make an adjustment:

…

(8) If the trustee is not a beneficiary but the adjustment would benefit the trustee directly or ~~indirectly; or~~ indirectly, except that a trustee may make an adjustment that also benefits a beneficiary even if the terms of the trust provide for trustee compensation as a percentage of the trust's income; or

…."

SECTION 45. G.S. 37A-1-104.1 reads as rewritten:

"§ **37A-1-104.1. Definitions.**

~~For purposes of this~~ The following definitions apply to this Part:

(1) ~~"Code" means the~~ Code. – The Internal Revenue Code of 1986, as amended from time to time, and any statutory enactment successor to the Code; reference to a specific section of the Code in this Part shall be considered a reference also to any successor provision dealing with the subject matter of that section of the Code.

~~(2) "Competent beneficiary" includes:~~

~~a. A beneficiary who has attained the age of 18 and is not otherwise under a legal disability;~~

~~b. A court-appointed guardian of an incompetent beneficiary;~~

~~c. An attorney-in-fact or agent under a durable power of attorney for an incompetent beneficiary;~~

~~d. A court-appointed guardian of a minor beneficiary's estate; and~~

~~e. In the case of a minor beneficiary for whom no guardian has been appointed, a parent of the minor beneficiary, but only if the parent does not have an interest in the estate or trust that conflicts with the interest of the minor beneficiary.~~

(3) ~~"Disinterested person" means a~~ Disinterested person. – A person who is not a related or subordinate party with respect to the person then

acting as trustee of the trust and excludes the ~~grantor~~ settlor of the trust and any interested trustee.

~~(4) "Grantor" means an individual who created an inter vivos trust.~~

(5) ~~"Income trust" means a~~ Income trust. – A trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, either in fixed proportions or in amounts or proportions determined by the trustee, and regardless of whether the trust directs or permits the trustee to distribute principal of the trust to one or more of those persons.

(6) ~~"Interested distributee" means a~~ Interested distributee. – A living beneficiary who is a distributee or permissible distributee ~~person to whom distributions~~ of trust income or principal ~~can currently be made~~ who has the power to remove the existing trustee and designate as successor a person who may be a related or subordinate party with respect to that distributee.

(7) ~~"Interested trustee" means~~ Interested trustee. – Any of the following:

~~(i)~~a. ~~an~~ An individual trustee ~~to whom the net income or principal of the trust can currently be distributed or would be distributed if the trust were then to terminate and be distributed,~~ who is a qualified beneficiary.

~~(ii)~~b. ~~any~~ Any trustee who may be removed and replaced by an interested ~~distributee, or~~ distributee.

~~(iii)~~c. ~~an~~ An individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust.

(7a) Legal disability. – A person under a legal disability is a person who is a minor, an incompetent, or an unborn individual, or whose identity or location is unknown.

(7b) Qualified beneficiary. – A qualified beneficiary as defined in G.S. 36C-1-103(15).

(8) ~~"Related or subordinate party" means a~~ Related or subordinate party. – A related or subordinate party as defined in section 672(c) of the Code.

(8a) Representative. – A person who may represent and bind another as provided in Article 3 of Chapter 36C of the General Statutes, the provisions of which shall apply for purposes of this Article.

(8b) Settlor. – An individual, including a testator, who creates a trust.

(9) ~~"Total return unitrust" means an~~ Total return unitrust. – An income trust that has been converted under and meets the provisions of this Part.

(9a) ~~"Treasury regulations" means the~~ Treasury regulations. – The regulations, rulings, procedures, notices, or other administrative pronouncements issued by the Internal Revenue Service, as amended from time to time.

(10) ~~"Trustee" means any~~ Trustee. – Any person acting as trustee of the trust, except as otherwise expressly provided in this Part, whether acting in that person's discretion or on the direction of one or more persons acting in a fiduciary capacity.

(11) ~~"Unitrust amount" means an~~ Unitrust amount. – An amount computed as a percentage of the fair market value of the trust."

SECTION 46. G.S. 37A-1-104.2 reads as rewritten:

"§ **37A-1-104.2. Conversion in trustee's discretion without court approval.**

(a) Any trustee, other than an interested trustee, or, where two or more persons are acting as trustees, a majority of the trustees who are not interested trustees (in either case hereafter "trustee"), may, in the trustee's sole discretion and without court approval, (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust ~~if:~~ if all of the following apply:

(1) The trustee adopts a written policy for the trust providing (i) in the case of a trust being administered as an income trust, that future distributions from the trust will be unitrust amounts rather than net income, (ii) in the case of a trust being administered as a total return unitrust, that future distributions from the trust will be net income rather than unitrust amounts, or (iii) that the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust will be changed as stated in the ~~policy;~~policy.

(2) The trustee ~~sends~~ gives written notice of its intention to take the action, ~~along with~~ including copies of the written policy and this Part, to (i) the ~~grantor~~ settlor of the trust, if living, and ~~(ii) all the competent beneficiaries who are currently receiving or eligible to receive distributions of income of the trust, (iii) without regard to the exercise of a general power of appointment, all competent beneficiaries who would receive or be eligible to receive the distributions of income of the trust if the interests of the beneficiaries currently receiving or eligible to receive the income terminated at the time of the giving of the notice but the termination of those interests would not cause the trust to terminate, (iv) without regard to the exercise of any power of appointment, all the competent beneficiaries who would receive principal of the trust if the trust were to terminate at the time of the giving of the notice, and (v) all persons acting as advisor or protector of the trust;~~ (ii) all persons who are the qualified beneficiaries of the trust at the time the notice is given. If a qualified beneficiary is under a legal disability, notice shall be given to the representative of the qualified beneficiary if a representative is available without court order.

(3) There is at least (i) one ~~competent~~ qualified beneficiary described in ~~subdivision (2)(ii) of this subsection or subdivision (2)(iii) of this subsection~~ G.S. 36C-1-103(15)a. or b. who is not under a legal disability or a representative of a qualified beneficiary so described and (ii) one ~~competent~~ qualified beneficiary described in ~~subdivision (2)(iv) of this subsection;~~ G.S. 36C-1-103(15)c. who is not under a legal disability or a representative of a qualified beneficiary so described.

(4) No person receiving notice of the trustee's intention to take the proposed action objects to the action within 60 days ~~of receipt of the~~

~~notice~~ after notice has been given. The objection shall be by written instrument delivered to the trustee.

(b) If there is no trustee of the trust other than an interested trustee, the interested trustee or, where two or more persons are acting as trustee and are interested trustees, a majority of the interested trustees may, in its sole discretion and without court approval, (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust ~~if:~~ if all of the following apply:

(1) The trustee adopts a written policy for the trust providing (i) in the case of a trust being administered as an income trust, that future distributions from the trust will be unitrust amounts rather than net income as determined under this Chapter, (ii) in the case of a trust being administered as a total return unitrust, that future distributions from the trust will be net income as determined under this Chapter rather than unitrust amounts, or (iii) that the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust will be changed as stated in the ~~policy;~~ policy.

(2) The trustee appoints a disinterested person who, in its sole discretion but acting in a fiduciary capacity, determines for the trustee (i) the percentage to be used to calculate the unitrust amount, (ii) the method to be used in determining the fair market value of the trust, and (iii) which assets, if any, are to be excluded in determining the unitrust ~~amount;~~ amount.

(3) The trustee ~~sends~~ gives written notice of its intention to take the action, ~~along with~~ including copies of the written policy and this Part, and the determinations of the disinterested person to (i) the ~~grantor~~ settlor of the trust, if living, and (ii) all persons who are the ~~competent~~ qualified beneficiaries ~~who are currently receiving or eligible to receive distributions of income of the trust, (iii) without regard to the exercise of a general power of appointment, all competent beneficiaries who would receive or be eligible to receive the distributions of income of the trust if the interests of the beneficiaries currently receiving or eligible to receive the income terminated at the time of the giving of the notice but the termination of those interests would not cause the trust to terminate, (iv) without regard to the exercise of any power of appointment, all the competent beneficiaries who would receive principal of the trust if the trust were to terminate at the time of the giving of the notice, and (v) all persons acting as advisor or protector of the trust;~~ of the trust at the time of the giving of the notice. If a qualified beneficiary is under a legal disability, notice shall be given to the representative of the qualified beneficiary if a representative is available without court order.

(4) There is at least one (i) ~~competent~~ qualified beneficiary described in ~~subdivision (3)(ii) of this subsection or subdivision (3)(iii) of this subsection~~ G.S. 36C-1-103(15)a. or b. or a representative of a beneficiary so described and (ii) one ~~competent~~ qualified beneficiary described in ~~subdivision (3)(iv) of this subsection;~~

G.S. 36C-1-103(15)c. or a representative of a qualified beneficiary so described. ~~and~~

(5) No person receiving notice of the trustee's intention to take the proposed action of the trustee objects to the action or to the determination of the disinterested person within 60 days ~~of receipt of~~ after ~~the~~ notice has been given. The objection must be by written instrument delivered to the trustee.

(c) A trustee may act under subsection (a) or (b) of this section with respect to a trust for which both income and principal have been set aside permanently for charitable purposes under the governing instrument and for which a federal estate or gift tax deduction has been taken, provided ~~that:~~ that all of the following apply:

(1) Instead of sending written notice to the persons described in subdivisions (2) and (3) of subsection (a) of this section or subdivisions ~~(2)~~ (3) and ~~(3)~~ (4) of subsection (b) of this section, as the case may be, the trustee shall send written notice to ~~the named charity or charities~~ each charitable organization expressly designated ~~then entitled~~ to receive the income of the trust under the governing instrument and, if no ~~named charity or charities are~~ charitable organization is expressly designated ~~entitled~~ to receive all of the income of the trust under the governing instrument, to the Attorney General of this ~~State;~~ State.

(2) Subdivision (4) of subsection (a) of this section or subdivision ~~(4)~~ (5) of subsection (b) of this section, as the case may be, shall not apply to this ~~action; and~~ action.

(3) In each taxable year, the trustee shall distribute the greater of the unitrust amount or the amount required by section 4942 of the Code.

(d) The provisions of G.S. 36C-1-109 regarding notices and the sending of documents to persons under Chapter 36C of the General Statutes shall apply for purposes of notices and the sending of documents under this section."

SECTION 47. G.S. 37A-1-104.3 reads as rewritten:

"§ **37A-1-104.3. Conversion with court approval.**

(a) If any trustee desires to (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust but does not have the ability to or elects not to do it under ~~G.S. 36A-1-104.2,~~ G.S. 37A-1-104.2, the trustee may petition the court for an order as the trustee considers appropriate. In the event, however, there is only one trustee of the trust and the trustee is an interested trustee or in the event there are two or more trustees of the trust and a majority of them are interested trustees, the court, in its own discretion or on the petition of the trustee or trustees or any person interested in the trust, may appoint a disinterested person who, acting in a fiduciary capacity, shall present information to the court as shall be necessary to enable the court to make its determinations under this Part.

(b) A ~~competent~~ qualified beneficiary or a representative of a qualified beneficiary may request the trustee to (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust. If the trustee does not take the action requested, the

~~competent~~ qualified beneficiary or a representative of the qualified beneficiary may petition the court to order the trustee to take the action.

(c) All proceedings under this section shall be conducted as provided in ~~Article 3 of Chapter 36A of the General Statutes.~~ Article 2 of Chapter 36C of the General Statutes."

SECTION 48. G.S. 37A-1-104.4(a) reads as rewritten:

"(a) The fair market value of the trust shall be determined at least annually, using a valuation date selected by the trustee in its discretion. The trustee, in its discretion, may use an average of the fair market value on the same valuation date for the current fiscal year and not more than three preceding fiscal years, if the use of this average appears desirable to reduce the impact of fluctuations in market value on the unitrust amount. Assets for which a fair market value cannot be readily ascertained shall be valued using valuation methods as are considered reasonable and appropriate by the trustee. Assets, such as a residence or tangible personal property, used by the trust beneficiary ~~also~~ may be excluded from the fair market value for computing the unitrust amount."

SECTION 49. G.S. 37A-1-104.4(b) reads as rewritten:

"(b) The percentage to be used in determining the unitrust amount shall be a reasonable current return from the trust, in any event not less than three percent (3%) nor more than five percent (5%), taking into account the intentions of the ~~grantor~~ settlor of the trust as expressed in the governing instrument, the needs of the beneficiaries, general economic conditions, projected current earnings and appreciation for the trust, and projected inflation and its impact on the trust."

SECTION 49.1. G.S. 37A-1-104.7 is repealed.

SECTION 50. G.S. 37A-1-104.9 reads as rewritten:

"§ **37A-1-104.9. Applicability.**

This Part shall apply to all trusts in existence on, or created after January 1, 2004, unless (i) the governing instrument contains a provision clearly expressing the ~~grantor's~~ settlor's intention that the current beneficiary or beneficiaries are to receive an amount other than a reasonable current return from the trust, (ii) the trust is a trust described in section 170(f)(2)(B), section 664(d), section 2702(a)(3), or section 2702(b) of the Code, (iii) the trust is a trust under which any amount is, or has been in the past, set aside permanently for charitable purposes unless the income from the trust also is devoted permanently to charitable purposes, or (iv) the governing instrument expressly prohibits use of this Part by specific reference to this Part, or expressly states the ~~grantor's~~ settlor's intent that net income not be calculated as a unitrust amount. A provision in the governing instrument that "the provisions of Part 2 of Article 1 of Chapter 37A of the General Statutes or any corresponding provision of future law, shall not be used in the administration of this trust." or "the trustee shall not determine the distributions to the income beneficiary as a unitrust amount." or similar words reflecting that intent is sufficient to preclude the use of this Part."

SECTION 51. G.S. 53-163.2 reads as rewritten:

"§ **53-163.2. Investments in securities by banks or trust companies.**

Unless the governing instrument, court order, or a statute specifically directs otherwise, a bank or trust company serving as trustee, guardian, agent, or in any other fiduciary capacity may invest in any security authorized by this Chapter even if such fiduciary or an affiliate ~~thereof, as defined in G.S. 36A-60(1),~~ thereof participates or has participated as a member of a syndicate underwriting such security, if:

(1) The fiduciary does not purchase the security from itself or its affiliate; and

(2) The fiduciary does not purchase the security from another syndicate member or an affiliate, pursuant to an implied or express agreement between the fiduciary or its affiliate and a selling member or its affiliate, to purchase all or part of each other's underwriting commitments."

SECTION 52. G.S. 35A-1251(24) reads as rewritten:

"§ **35A-1251. Guardian's powers in administering incompetent ward's estate.**

In the case of an incompetent ward, a general guardian or guardian of the estate has the power to perform in a reasonable and prudent manner every act that a reasonable and prudent person would perform incident to the collection, preservation, management, and use of the ward's estate to accomplish the desired result of administering the ward's estate legally and in the ward's best interest, including but not limited to the following specific powers:

…

(24) To petition the court for ~~prior~~ approval ~~of transfers of assets of the ward~~ of the exercise of any of the following powers with respect to a revocable trust ~~executed by the ward~~ that the ward, if competent, ~~prior to the ward being declared incompetent, provided that the ward executed a paper writing with all the formalities required by the laws of North Carolina for the execution of a valid will prior to the ward being declared incompetent and that will directs that the assets that are being transferred to the trust are to be distributed to the trust at the ward's death or the revocable trust has the same dispositive provisions as the ward's will or provides that the assets in the trust are to be distributed to the ward's estate upon the death of the ward. The guardian may at any time withdraw any assets (or the proceeds of the sale of any assets) transferred by the guardian to the trust upon 30 days' written notice to the trustee of the trust; provided, however, no assets which have been distributed or otherwise disposed of by the trustee (before the notice is received by the trustee) in accordance with the terms of the trust can be so withdrawn.~~ could exercise as settlor of the revocable trust:

a. Revocation of the trust.

b. Amendment of the trust.

c. Additions to the trust.

d. Direction to dispose of property of the trust.

e. The creation of the trust, notwithstanding the provisions of G.S. 36C-4-402(a)(1) and (2).

The exercise of the powers described in this subdivision (i) shall not alter the designation of beneficiaries to receive property on the ward's death under that ward's existing estate plan; and (ii) shall be subject to the provisions of Articles 17, 18, and 19 of this Chapter concerning gifts."

SECTION 53. Article 1 of Chapter 39 of the General Statutes is amended by adding the following new section to read:

"**§ 39-6.7. Construction of conveyances to or by trusts.**

(a) A deed, will, beneficiary designation, or other instrument that purports to convey, devise, or otherwise transfer any ownership or security interest in real or personal property to a trust shall be deemed to be a transfer to the trustee or trustees of that trust.

(b) A deed or other instrument which purports to convey or otherwise transfer any ownership or security interest in real or personal property by a trust shall be deemed to be a transfer by the trustee or trustees of that trust. This rule of construction shall apply:

(1) Regardless of whether the instrument is signed by the trustee or trustees as such, or by the trustee or trustees purportedly for or on behalf of the trust; and

(2) Regardless of whether the instrument by which the trustee or trustees acquired title transferred that title to the trustee or trustees as such, or purportedly to the trust.

(c) A deed or other instrument by which the trustee or trustees of a trust convey or otherwise transfer any ownership or security interest in real or personal property shall be deemed sufficient:

(1) Regardless of whether the instrument is signed by the trustee or trustees as such, or by the trustee or trustees purportedly for or on behalf of the trust; and

(2) Regardless of whether the instrument by which the trustee or trustees acquired title transferred that title to the trustee or trustees as such, or purportedly to the trust.

(d) The trustee or trustees of a trust may convey or otherwise transfer any ownership or security interest in real or personal property as trustee or trustees even though the deed or instrument by which the trustee or trustees acquired title purported to convey or transfer that title to the trust.

(e) Nothing in this section shall be construed to limit the manner in which title to real or personal property may be conveyed or transferred to or by trustees."

SECTION 54. Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ 36C-11-1104. Trustee signatures.**

The signature of a trustee of a trust who signs a document for or on behalf of the trust shall be deemed to be the signature of the trustee as such. A document which identifies a trust shall be deemed to include the trustee or the trustees as such."

SECTION 55. The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of this act, or revisions to existing explanatory comments of the drafters of this act, as the Revisor may deem appropriate.

SECTION 56. This act becomes effective October 1, 2007, and applies to (i) all trusts created, and to all conveyances, devises, beneficiary designations, or other transfers occurring before, on, or after that date; (ii) all judicial proceedings concerning trusts or transfers to or by trusts commenced on or after that date; and (iii) all judicial proceedings concerning trusts or transfers to or by trusts commenced before that date unless the court finds that application of a particular provision of this act would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the law as it existed on September 30, 2007, shall apply.

In the General Assembly read three times and ratified this the 14th day of June, 2007.

Became law upon approval of the Governor at 11:41 a.m. on the 25th day of June, 2007.

Session Law 2007-107 **House Bill 36**

AN ACT TO IMPROVE THE OVERSIGHT OF HAZARDOUS WASTE FACILITIES, AS RECOMMENDED BY THE GOVERNOR'S HAZARDOUS MATERIALS TASK FORCE.

The General Assembly of North Carolina enacts:

PART I. REGULATORY RECOMMENDATIONS

REQUIRE APPLICANTS FOR PERMITS FOR COMMERCIAL HAZARDOUS WASTE FACILITIES TO DEMONSTRATE FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION AND FOR SCREENING FOR POTENTIAL OFF-SITE MIGRATION OF CONTAMINATION IN THE EVENT OF A RELEASE OF HAZARDOUS WASTE OR HAZARDOUS WASTE CONSTITUENTS INTO THE ENVIRONMENT

SECTION 1.1.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.04. Financial responsibility requirements for applicants for a permit and permit holders for hazardous waste facilities.**

(a) In addition to any other financial responsibility requirements for solid waste management facilities under this Part, the applicant for a permit or a permit holder for a hazardous waste facility shall establish financial assurance that will ensure that sufficient funds are available for facility closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.

(b) To establish sufficient availability of funds under this section, the applicant for a permit or a permit holder for a hazardous waste facility may use insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.

(c) The applicant for a permit or a permit holder for a hazardous waste facility, and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent, shall be a guarantor of payment for closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences arising from the operation of the hazardous waste facility.

(d) In addition to any other financial assurance requirements for hazardous waste management facilities under this section, an applicant for a permit or a permit holder for a commercial hazardous waste facility shall establish financial assurance that will

ensure that sufficient funds are available for corrective action and for off-site screening for potential migration of contaminants in the event of a release of hazardous waste or hazardous waste constituents into the environment in an amount approved by the Department. The applicant for a permit or a permit holder may not use a financial test or captive insurance to establish financial assurance under this subsection.

(e) The Department may require an applicant for a permit for a hazardous waste facility to provide cost estimates for facility closure, post-closure maintenance and monitoring, and any corrective action that the Department may require to the Department. The Department may require an applicant for a permit for a commercial hazardous waste facility to provide cost estimates for off-site screening for potential migration of contaminants in the event of a release of hazardous waste or hazardous waste constituents into the environment.

(f) Assets used to meet the financial assurance requirements of this section shall be in a form that will allow the Department to readily access funds for the purposes set out in this section. Assets used to meet financial assurance requirements of this section shall not be accessible to the permit holder except as approved by the Department.

(g) The Department may provide a copy of any filing that an applicant for a permit or a permit holder for a hazardous waste facility submits to the Department to meet the financial responsibility requirements under this section to the State Treasurer. The State Treasurer shall review the filing and provide the Department with a written opinion as to the adequacy of the filing to meet the purposes of this section, including any recommended changes.

(h) In order to continue to hold a permit for a hazardous waste facility, a permit holder must maintain financial responsibility as required by this Part and must provide any information requested by the Department to establish that the permit holder continues to maintain financial responsibility.

(i) An applicant for a permit or a permit holder for a hazardous waste facility shall satisfy the Department that the applicant or permit holder has met the financial responsibility requirements of this Part before the Department is required to otherwise review the application.

(j) The Commission may adopt rules regarding financial responsibility in order to implement this section."

SECTION 1.1.(b) G.S. 130A-294(b) reads as rewritten:

"(b) The Commission shall adopt and the Department shall enforce rules to implement a comprehensive statewide solid waste management program. The rules shall be consistent with applicable State and federal law; and shall be designed to protect the public health, safety, and welfare; preserve the environment; and provide for the greatest possible conservation of cultural and natural resources. Rules for the establishment, location, operation, maintenance, use, discontinuance, recordation, post-closure care of solid waste management facilities also shall be based upon recognized public health practices and procedures, including applicable epidemiological research and studies; hydro geological research and studies; sanitary engineering research and studies; and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

(b0) The Commission shall adopt rules for financial responsibility to ensure the availability of sufficient funds for closure and post-closure maintenance and monitoring at solid waste management facilities, and for any corrective action the Department may

require during the active life of a facility or during the closure and post-closure periods. The rules may permit demonstration of financial responsibility through the use of a letter of credit, insurance, surety, trust agreement, financial test, or guarantee by corporate parents or third parties who can pass the financial test. The rules shall require that an owner or operator of a privately owned solid waste management facility demonstrate financial responsibility by a method or combinations of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and any corrective action that the Department may require will be available during the active life of the facility, at closure, and for a period of not less than 30 years after closure even if the owner or operator becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State."

SECTION 1.1.(c) G.S. 130A-290(a) is amended by adding a new subdivision to read:

"(8a) 'Hazardous waste constituent' has the same meaning as in 40 Code of Federal Regulations § 260.10 (1 July 2006)."

SECTION 1.1.(d) G.S. 130A-294(b2) reads as rewritten:

"(b2) The Department may require an applicant for a permit or a permit holder under this Article to satisfy the Department that the ~~applicant,~~ applicant or permit holder, and any parent, subsidiary, or other affiliate of the ~~applicant~~ applicant, permit holder, or ~~parent:~~ parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent:

(1) Is financially qualified to carry out the activity for which the permit is required. An applicant for a permit and permit holders for solid waste management facilities that are not hazardous waste facilities shall establish financial responsibility as required by G.S. 130A-294(b0). An applicant for a permit and permit holders for hazardous waste facilities shall establish financial responsibility as required by G.S. 130A-295.04.

…."

SECTION 1.1.(e) G.S. 130A-294(j) is repealed.

SECTION 1.1.(f) G.S. 130A-308(a) reads as rewritten:

"(a) Standards adopted under G.S. 130A-294(c) and a permit issued under G.S. 130A-294(c) shall require corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under G.S. 130A-294(c), regardless of the time at which waste was placed in such unit. Permits issued under G.S. 130A-294(c) which implement Section 3005 of RCRA (42 U.S.C. § 6925) shall contain schedules of compliance for ~~such~~ corrective action ~~(where such~~ if corrective action cannot be completed prior to issuance of the ~~permit)~~ permit and ~~assurances of financial responsibility~~establishment of financial assurance for completing ~~such~~ corrective action. Notwithstanding any other provision of this section, this section shall apply only to units, facilities, and permits that are covered by Section 3004(u) of RCRA (42 U.S.C. § 6924(u)). Notwithstanding the foregoing, corrective action authorized elsewhere in this Chapter shall not be limited by this section."

SECTION 1.1.(g) The catch line of G.S. 130A-310.9 reads as rewritten:

"§ **130A-310.9. Voluntary remedial actions; ~~maximum financial responsibility;~~ limitation of liability; agreements; implementation and oversight by private engineering and consulting firms.**"

SECTION 1.1.(h) This section becomes effective 1 October 2007.

REQUIRE APPLICANTS FOR PERMITS FOR HAZARDOUS WASTE FACILITIES TO SEEK INPUT FROM LOCAL GOVERNMENT AND EMERGENCY RESPONSE AGENCIES ON THEIR CONTINGENCY PLANS FOR THE FACILITIES

SECTION 1.2.(a) G.S. 130A-295 is amended by adding four new subsections to read:

"(d) At least 120 days prior to submitting an application, an applicant for a permit for a hazardous waste facility shall provide to the county in which the facility is located, to any municipality with planning jurisdiction over the site of the facility, and to all emergency response agencies that have a role under the contingency plan for the facility all of the following information:

(1) Information on the nature and type of operations to occur at the facility.

(2) Identification of the properties of the hazardous waste to be managed at the facility.

(3) A copy of the draft contingency plan for the facility that includes the proposed role for each local government and each emergency response agency that received information under this subsection.

(4) Information on the hazardous waste locations within the facility.

(e) Within 60 days of receiving the information, each local government and emergency response agency that receives information under subsection (d) of this section shall respond to the applicant in writing as to the adequacy of the contingency plan and the availability and adequacy of its resources and equipment to respond to an emergency at the facility that results in a release of hazardous waste or hazardous waste constituents into the environment according to the role set forth for the local government or emergency response agency under the contingency plan.

(f) An applicant for a permit for a hazardous waste facility shall include documentation that each local government and emergency response agency received the information required under subsection (d) of this section, the written responses the applicant received under subsection (e) of this section, and verification by each that its resources and equipment are available and adequate to respond to an emergency at the facility in accordance with its role as set forth in the contingency plan. If the applicant does not receive a timely verification from a local government or emergency response agency notified under subsection (d) of this section, the Department shall verify the adequacy of resources and equipment for emergency response during the course of review of the permit application, taking into account any contracts entered into by the applicant for such emergency response resources.

(g) At each two-year interval after a permit for a hazardous waste facility is issued, the permit holder shall verify that the resources and equipment of each local government and emergency response agency are available and adequate to respond to an emergency at the facility in accordance with its role as set forth in the contingency plan and shall submit this verification to the Department."

SECTION 1.2.(b) This section is effective when it becomes law and applies to applications pending on the date this section becomes effective. An applicant shall provide the information required under G.S. 130A-295(d), as enacted by this section, as it relates to an application pending on the date this section becomes effective within 30 days after this section becomes effective.

REQUIRE OPERATORS OF COMMERCIAL HAZARDOUS WASTE FACILITIES TO MAINTAIN CERTAIN INFORMATION AT AN OFF-SITE LOCATION AND MAKE THESE ACCESSIBLE TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, LOCAL GOVERNMENT, AND EMERGENCY RESPONSE AGENCIES THAT HAVE A ROLE UNDER CONTINGENCY PLANS

SECTION 1.3.(a) G.S. 130A-295.01 is amended by adding a new subsection to read:

"(c) The owner or operator of a commercial hazardous waste facility shall maintain a record of information at an off-site location that identifies the generators of the waste and the quantity, type, location, and hazards of the waste at the facility and shall make this information available in a form and manner to be determined by the Department, accessible to the Department, to the county in which the facility is located, to any municipality with planning jurisdiction over the site of the facility, and to emergency response agencies that have a role under the contingency plan for the facility."

SECTION 1.3.(b) This section becomes effective 1 October 2007.

REQUIRE AN APPLICANT FOR A PERMIT FOR A COMMERCIAL HAZARDOUS WASTE FACILITY TO NOTIFY PERSONS WHO RESIDE OR OWN PROPERTY LOCATED WITHIN ONE-FOURTH MILE OF THE PROPOSED FACILITY THAT AN APPLICATION HAS BEEN FILED, REQUIRE PERMIT HOLDERS TO PROVIDE PERIODIC NOTICE TO THESE PERSONS THAT INCLUDES INFORMATION CONCERNING THE EMERGENCY RESPONSE PLAN FOR THE FACILITY, AND REQUIRE THAT DOCUMENTATION OF THESE NOTICES BE PROVIDED TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

SECTION 1.4.(a) G.S. 130A-295.01 is amended by adding four new subsections to read:

"(d) Within 10 days of filing an application for a permit for a commercial hazardous waste facility, the applicant shall notify every person who resides or owns property located within one-fourth mile of any property boundary of the facility that the application has been filed. The notice shall be by mail to residents and by certified mail to property owners, or by any other means approved by the Department, shall be in a form approved by the Department, and shall include all of the following:

(1) The location of the facility.
(2) A description of the facility.
(3) The hazardous and nonhazardous wastes that are to be received and processed at the facility.
(4) A description of the emergency response plan for the facility.

(e) The permit holder for a commercial hazardous waste facility shall publish a notice that includes the information set out in subsection (d) of this section annually beginning one year after the permit is issued. The notice shall be published in a form and manner approved by the Department in a newspaper of general circulation in the community where the facility is located.

(f) The permit holder for a commercial hazardous waste facility shall provide the information set out in subdivisions (1) through (4) of subsection (d) of this section by mail to the persons described in subsection (d) of this section at the midpoint of the period for which the permit is issued.

(g) Each commercial hazardous waste facility applicant and permit holder shall provide documentation to demonstrate to the Department that the requirements set out in subsections (d) through (f) of this section have been met."

SECTION 1.4.(b) This section becomes effective 1 October 2007.

REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CONSIDER, WHEN DETERMINING THE FREQUENCY OF INSPECTIONS AT COMMERCIAL HAZARDOUS WASTE FACILITIES, CHANGES IN SENSITIVE LAND USE OR POPULATION DENSITY THAT OCCURRED DURING THE PREVIOUS YEAR IN THE AREA LOCATED WITHIN ONE-FOURTH MILE OF ANY PROPERTY BOUNDARY OF SUCH FACILITIES

SECTION 1.5.(a) G.S. 130A-295.01 is amended by adding a new subsection to read:

"(e) No later than 31 January of each year, the owner or operator of a commercial hazardous waste facility shall report to the Department any increase or decrease in the number of sensitive land uses and any increase or decrease in estimated population density based on information provided by the local government that has planning jurisdiction over the site on which the facility is located that occurred during the previous calendar year in the area located within one-fourth mile of any property boundary of the facility. Changes shall be recorded in the operating record of the facility. As used in this subsection, 'sensitive land use' includes residential housing, places of assembly, places of worship, schools, day care providers, and hospitals. Sensitive land use does not include retail businesses."

SECTION 1.5.(b) G.S. 130A-295.02(j) reads as rewritten:

"(j) For purposes of this subsection, special purpose commercial hazardous waste facilities include: a facility that manages limited quantities of hazardous waste; a facility that limits its hazardous waste management activities to reclamation or recycling, including energy or materials recovery or a facility that stores hazardous waste primarily for use at such facilities; or a facility that is determined to be low risk under rules adopted by the Commission pursuant to this subsection. The Commission shall adopt rules ~~establishing~~ to determine whether a commercial hazardous waste facility is a special purpose commercial hazardous waste facility and to establish classifications of special purpose commercial hazardous waste facilities. ~~reasonable times and frequencies for the presence of a resident inspector on less than a full-time basis at special purpose commercial hazardous waste facilities. Rules adopted pursuant to this subsection~~ The rules to determine whether a commercial hazardous waste facility is a special purpose commercial hazardous waste facility and to establish classifications of special purpose commercial hazardous waste facilities shall ~~establish classifications of special purpose hazardous waste facilities~~ be based on factors including, but not limited to, the size of the facility, the type of treatment or storage being performed, the nature and volume of waste being treated or stored, the uniformity, similarity, or lack of diversity of the waste streams, the predictability of the nature of the waste streams and their treatability, whether the facility utilizes automated monitoring or safety devices that adequately

perform functions that would otherwise be performed by a resident inspector, the fact that reclamation or recycling is being performed at the facility, and the compliance history of the facility and its operator. ~~Special purpose commercial hazardous waste facilities shall be subject to inspection at all times during which the facility is in operation, undergoing any maintenance or repair, or undergoing any test or calibration.~~ Based on the foregoing factors and any increase or decrease in the number of sensitive land uses over time or in estimated population density over time reported pursuant to G.S. 130A-295.01(e), rules ~~Rules~~ adopted pursuant to this subsection shall establish times and frequencies for the presence of a resident inspector on less than a full-time basis at special purpose commercial hazardous waste facilities and specify a minimum number of additional inspections at special purpose hazardous waste facilities. Special purpose commercial hazardous waste facilities that utilize hazardous waste as a fuel source shall be inspected a minimum of 40 hours per week, unless compliance data for these facilities can be electronically monitored and recorded off-site by the Department. The Department, considering the benefits provided by electronic monitoring, shall determine the number of hours of on-site inspection required at these facilities. The Department shall maintain records of all inspections at special purpose commercial hazardous waste facilities. Such records shall contain sufficient detail and shall be arranged in a readily understandable format so as to facilitate determination at any time as to whether the special purpose commercial hazardous waste facility is in compliance with the requirements of this subsection and of rules adopted pursuant to this subsection. Notwithstanding any other provision of this section, special purpose commercial hazardous waste facilities shall be subject to inspection at all times during which the facility is in operation, undergoing any maintenance or repair, or undergoing any test or calibration."

SECTION 1.5.(c) This section is effective when it becomes law.

REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO PROVIDE SECURITY AND SURVEILLANCE AT THE FACILITY 24 HOURS A DAY, SEVEN DAYS A WEEK IN ORDER TO MONITOR SITE CONDITIONS AND TO CONTROL ENTRY TO THE SITE OF THE FACILITY

SECTION 1.6.(a) G.S. 130A-295.01 is amended by adding a new subsection to read:

"(f) The owner or operator of a commercial hazardous waste facility shall provide a security and surveillance system at the facility 24 hours a day, seven days a week in order to continuously monitor site conditions and to control entry. The security and surveillance system shall be capable of promptly detecting unauthorized access to the facility; monitoring conditions; identifying operator errors; and detecting any discharge that could directly or indirectly cause a fire, explosion, or release of hazardous waste or hazardous waste constituents into the environment or threaten human health. The requirements of this subsection may be satisfied either by employing trained facility personnel or by providing an electronic security and surveillance system which may include television, motion detectors, heat-sensing equipment, combustible gas monitors, or any combination of these, as approved by the Department."

SECTION 1.6.(b) This section becomes effective 1 October 2007.

REQUIRE PERMITS FOR COMMERCIAL HAZARDOUS WASTE FACILITIES TO BE SUBJECT TO RENEWAL AT LEAST EVERY FIVE YEARS

SECTION 1.7.(a) G.S. 130A-295.01 is amended by adding a new subsection to read:

"(g) The Department shall not issue a permit for a commercial hazardous waste facility for a period of more than five years. A permit holder for a commercial hazardous waste facility who intends to apply for renewal of the permit shall submit an application for the renewal of the permit at least one year before the permit expires unless the Department approves a shorter period of time."

SECTION 1.7.(b) This section is effective when it becomes law.

AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REGULATE FACILITIES AT WHICH HAZARDOUS WASTE IS STORED FOR MORE THAN 24 HOURS BUT LESS THAN 10 DAYS AND DIRECT THE DEPARTMENT TO STUDY THE NEED FOR FURTHER REGULATION OF THESE FACILITIES

SECTION 1.8.(a) G.S. 130A-290(a) is amended by renumbering subdivision (13a) as (13b) and by adding a new subdivision to read:

"(13a) 'Hazardous waste transfer facility' means a facility or location where a hazardous waste transporter stores hazardous waste for a period of more than 24 hours but less than 10 days."

SECTION 1.8.(b) G.S. 130A-290(a)(9) reads as rewritten:

"(9) 'Hazardous waste facility' means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. Hazardous waste facility does not include a hazardous waste transfer facility that meets the requirements of 40 Code of Federal Regulations § 263.12 (1 July 2006)."

SECTION 1.8.(c) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.05. Hazardous waste transfer facilities.**

(a) The owner or operator of a hazardous waste transfer facility in North Carolina shall register the facility with the Department and shall obtain a hazardous waste transfer facility identification number for the facility. In order to obtain a hazardous waste transfer facility identification number for the facility, the owner or operator of the facility shall provide all of the following information to the Department at the time of registration:

(1) The location of the hazardous waste transfer facility.

(2) The name of the owner of the property on which the hazardous waste transfer facility is located.

(b) Except during transportation emergencies as determined by the Department, the temporary storage, consolidation, or commingling of hazardous waste may occur only at a hazardous waste transfer facility that has been issued a facility identification number by the Department.

(c) A hazardous waste transporter and the owner or operator of a hazardous waste transfer facility shall conduct all operations at any hazardous waste transfer facility in compliance with the requirements of 40 Code of Federal Regulations Part 263

(1 July 2006), 49 U.S.C. § 5101, et seq., and any laws, regulations, or rules enacted or adopted pursuant to these federal laws. Except as preempted under 49 U.S.C. § 5125, a hazardous waste transporter and the owner or operator of a hazardous waste transfer facility shall also conduct all operations at any hazardous waste transfer facility in compliance with all applicable State laws or rules.

(d) A hazardous waste transporter shall notify the Department, on a form prescribed by the Department, of every hazardous waste transfer facility in North Carolina that the transporter uses. A hazardous waste transporter shall retain all records that are required to be maintained for at least three years.

(e) The owner or operator of a hazardous waste transfer facility shall notify the Department, on a form prescribed by the Department, of every hazardous waste transporter that makes use of the facility. The owner or operator of a hazardous waste transfer facility shall retain all records that are required to be maintained for at least three years."

SECTION 1.8.(d) The Department of Environment and Natural Resources shall study the need for further regulation of hazardous waste transfer facilities, as defined in G.S. 130A-290(a)(13a), as enacted by subsection (a) of this section, including whether to require these facilities to obtain a permit under Part 2 of Article 9 of Chapter 130A of the General Statutes, pay permit fees, provide contingency plans, and demonstrate financial responsibility. The Department of Environment and Natural Resources shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before 15 February 2008.

SECTION 1.8.(e) This section becomes effective 1 October 2007.

REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO INSTALL AND MAINTAIN ON-SITE WIND MONITORS

SECTION 1.9.(a) G.S. 130A-295.01 is amended by adding a new subsection to read:

"(h) The operator of a commercial hazardous waste facility shall install an on-site wind monitor approved by the Department. The wind monitor required shall be located so that the real-time wind direction can be determined from a remote location in the event of a release of hazardous waste or hazardous waste constituents into the environment."

SECTION 1.9.(b) This section becomes effective 1 October 2007.

PROVIDE THAT A LOCAL ZONING OR LAND-USE ORDINANCE IS PRESUMED TO BE VALID AND ENFORCEABLE TO THE EXTENT THE ZONING OR LAND-USE ORDINANCE IMPOSES REQUIREMENTS, RESTRICTIONS, OR CONDITIONS THAT ARE GENERALLY APPLICABLE TO DEVELOPMENT; AND REQUIRE THE OFFICE OF THE GOVERNOR TO SEEK THE ADVICE OF LOCAL UNITS OF GOVERNMENT REGARDING THE ADEQUACY OF CURRENT CRITERIA THE SECRETARY MUST CONSIDER WHEN DECIDING WHETHER TO PREEMPT THESE LOCAL ORDINANCES

SECTION 1.10.(a) G.S. 130A-293 reads as rewritten:

"§ **130A-293. Local ordinances prohibiting hazardous waste facilities invalid; petition to preempt local ordinance.**

(a) It is the intent of the General Assembly to maintain a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances, including but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land use, any local ordinance that prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility that the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this Chapter. To this end, all provisions of special, local, or private acts or resolutions are repealed that:

(1) Prohibit the transportation, treatment, storage, or disposal of hazardous waste within any county, city, or other political subdivision.

(2) Prohibit the siting of a hazardous waste facility within any county, city, or other political subdivision.

(3) Place any restriction or condition not placed by this Article ~~9 of Chapter 130A of the General Statutes~~ upon the transportation, treatment, storage, or disposal of hazardous waste, or upon the siting of a hazardous waste facility within any county, city, or other political subdivision.

(4) In any manner are in conflict or inconsistent with the provisions of this Article. ~~Article 9 of Chapter 130A of the General Statutes.~~

(a1) No special, local, or private ~~acts or resolutions~~ act or resolution enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of this Article ~~9 of Chapter 130A of the General Statutes~~ unless it expressly provides for such by specific references to the appropriate section of this ~~Part.~~ Article. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility are invalidated to the extent preempted by the Secretary pursuant to this ~~Section.~~ section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance, the operator of the proposed facility may petition the Secretary to review the matter. After receipt of a petition, the Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the Secretary, the Secretary shall hold a public hearing to consider the petition. The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Secretary. The Secretary shall give notice of the public hearing by:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and

(2) First class mail to persons who have requested notice. The Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be

complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address that appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(c1) Any interested person may appear before the Secretary at the hearing to offer testimony. In addition to testimony before the Secretary, any interested person may submit written evidence to the Secretary for the Secretary's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) A local zoning or land-use ordinance is presumed to be valid and enforceable to the extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that are generally applicable to development, including, but not limited to, setback, buffer, and stormwater requirements, unless the Secretary makes a finding of fact to the contrary. The Secretary shall determine whether or to what extent to preempt local ordinances so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Secretary shall preempt a local ordinance only if the Secretary makes all ~~five~~ of the following findings:

(1) That there is a local ordinance that would prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility.

(2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party and therefore serves the interests of the citizens of the State as a whole.

(3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance.

(4) That local citizens and elected officials have had adequate opportunity to participate in the siting process.

(5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with applicable local ordinances.

(d1) If the Secretary does not make all ~~five~~ of the findings ~~set out above~~,under subsection (d) of this section, the Secretary shall not preempt the challenged local ordinance. The Secretary's decision shall be in writing and shall identify the evidence submitted to the Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the Secretary shall be final unless a party to the action files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by G.S. 7A-29 and this section, within 30 days of the date of the decision. The record on appeal shall consist of all materials and information submitted to or considered by the Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions

on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions;
(2) In excess of the statutory authority or jurisdiction of the agency;
(3) Made upon unlawful procedure;
(4) Affected by other error of law;
(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
(6) Arbitrary or capricious.

(e1) If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for the reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

(g) Repealed by Session Laws 1989, c. 168, s. 13."

SECTION 1.10.(b) The Office of the Governor shall seek the advice of units of local government to determine if the criteria that the Secretary of Environment and Natural Resources considers in determining whether or to what extent to preempt local ordinances pursuant to G.S. 130A-293, as amended by subsection (a) of this section, should be further amended. The Office of the Governor shall report its findings and recommendations, including any legislative proposals to the Environmental Review Commission on or before 1 March 2008.

SECTION 1.10.(c) This section is effective when it becomes law.

PART II. CLARIFYING, CONFORMING, AND TECHNICAL CHANGES

SECTION 2.1.(a) G.S. 130A-294(c) reads as rewritten:

"(c) The Commission shall adopt and the Department shall enforce rules ~~concerning~~ governing the management of hazardous waste. These rules shall establish a complete and integrated regulatory scheme in the area of hazardous waste ~~management~~ management, implement this Part, and ~~shall provide for:~~shall:

(1) ~~Establishing~~ Establish criteria for hazardous waste, ~~identifying~~identify the characteristics of hazardous ~~waste and listing~~waste, and list particular hazardous ~~waste;~~waste.
(1a) ~~Establishing~~ Establish criteria for hazardous constituents, ~~identifying~~ identify the characteristics of hazardous ~~constituents and listing~~constituents, and list particular hazardous ~~constituents;~~constituents.
(2) ~~Record keeping~~ Require record keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste ~~facilities;~~facilities.
(3) ~~Proper~~ Require proper labeling of hazardous waste ~~containers;~~containers.
(4) ~~Use of~~ Require use of appropriate containers for hazardous ~~waste;~~waste.

(5) ~~A~~ Require maintenance of a manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been ~~issued;~~issued.

(6) ~~Proper~~ Require proper transportation of hazardous ~~waste;~~waste.

(7) ~~Treatment,~~Develop treatment storage and disposal standards of performance and techniques to be used by hazardous waste ~~facilities;~~facilities.

(8) ~~Location,~~Develop standards regarding location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste disposal facility or polychlorinated biphenyl disposal facility shall be located within 25 miles of any other hazardous waste disposal facility or polychlorinated biphenyl disposal ~~facility;~~facility.

(9) ~~Plans~~ Require plans to minimize unanticipated damage from treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the ~~State;~~State.

(10) ~~Proper~~ Require proper maintenance and operation of hazardous waste facilities, including requirements for ownership by any person or the State, require demonstration of financial responsibility ~~(including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures through the use of a letter of credit, insurance, surety, trust agreement, financial test, or financial test and corporate guarantee),~~ in accordance with this section and G.S. 130A-295.04, provide for training of personnel, and provide for continuity of operation and procedures for establishing and maintaining hazardous waste ~~facilities;~~facilities.

(11) ~~Monitoring by~~Require owners or operators of hazardous waste ~~facilities;~~ facilities to monitor the facilities.

(12) ~~Inspection~~ Authorize or require inspection or copying of records required to be ~~kept;~~kept by owners or operators.

(13) ~~Obtaining and analyzing~~ Provide for collection and analysis of hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste ~~facilities;~~facilities.

(14) ~~A~~ Develop a permit system governing the establishment and operation of hazardous waste ~~facilities;~~facilities.

(15) ~~Additional~~ Develop additional requirements as necessary for the effective management of hazardous ~~waste;~~waste.

(16) ~~The~~ Require the operator of the hazardous waste disposal facility ~~shall~~ to maintain adequate insurance to cover foreseeable claims arising from the operation of the facility. The Department shall determine what constitutes an adequate amount of ~~insurance;~~insurance.

(17) ~~The~~ Require the bottom of a hazardous waste disposal facility ~~shall~~ to be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the ~~environment; and~~environment.

(18) ~~The~~ Require the operator of a hazardous waste disposal facility ~~shall~~ to make monthly reports to the board of county commissioners of the

county in which the facility is located on the kinds and amounts of hazardous wastes in the facility."

SECTION 2.1.(b) G.S. 130A-295.01 reads as rewritten:

"§ **130A-295.01. Additional requirement for commercial hazardous waste ~~treatment~~ facilities.**

(a) As used in this section:

(1) "Commercial hazardous waste ~~treatment~~ facility" means any hazardous waste ~~treatment facility which~~facility that accepts hazardous waste from the general public or from another person for a fee, but does not include any facility owned or operated by a generator of hazardous waste solely for his own use, and does not include any facility owned by the State or by any agency or subdivision thereof solely for the ~~treatment~~ management of hazardous waste generated by agencies or subdivisions of the ~~State;~~State.

(2) "New", when used in connection with "facility", refers to a planned or proposed facility, or a facility ~~which~~ that has not been placed in operation, but does not include facilities ~~which~~ that have commenced operations as of ~~June 22, 1987,~~22 June 1987, including facilities operated under interim ~~status;~~status.

(3) "Modified", when used in connection with "permit", means any change in any permit in force on or after ~~June 22, 1987,~~ 22 June 1987 ~~which~~ that would either expand the scope of permitted operations, or extend the expiration date of the permit, or otherwise constitute a ~~major~~ Class 2 or Class 3 modification of the permit as defined in ~~Title 40, Part 270.41 of the~~ 40 Code of Federal Regulations § 270.41 (1 July 2006). ~~(1 July 1986); and~~

(4) "7Q10 conditions", when used in connection with "surface water," refers to the minimum average flow for a period of seven consecutive days that has an average occurrence of once in 10 years as referenced in 15 NCAC 2B .0206(a)(3) as adopted ~~February 1,~~ 1 February 1976.

(b) No permit for any new commercial hazardous waste ~~treatment~~ facility shall be issued or become effective, and no permit for a commercial hazardous waste ~~treatment~~ facility shall be modified, until the applicant has satisfied the Department that such facility meets, in addition to all other applicable requirements, the following requirements:

(1) The facility shall not discharge directly a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater at the point of discharge into the surface water under 7Q10 conditions.

(2) The facility shall not discharge indirectly through a publicly owned treatment works (POTW) a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater, irrespective of any dilution occurring in a wastewater treatment plant, at the point of discharge into the surface water under 7Q10 conditions.

(c) through (h) (Reserved.)"

SECTION 2.1.(c) This section is effective when it becomes law.

PART III. RECOMMENDATIONS FOR OTHER STATUTORY CHANGES

AUTHORIZE STATE MEDICAL ASSISTANCE TEAMS AND THE EPIDEMIOLOGY SECTION OF THE DIVISION OF PUBLIC HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SEEK REIMBURSEMENT FOR ALL REASONABLE DEPLOYMENT COSTS INCURRED IN RESPONSE TO THE RELEASE OF HAZARDOUS MATERIAL OR HAZARDOUS WASTE INTO THE ENVIRONMENT

SECTION 3.1.(a) G.S. 166A-27 reads as rewritten:

"§ **166A-27. Action for the recovery of costs of hazardous materials emergency response.**

(a) A person who causes the release of a hazardous material requiring the activation of a regional response team shall be liable for all reasonable costs incurred by the regional response team in responding to and mitigating the incident. The Secretary shall invoice the person liable for the hazardous materials release, and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred.

(b) A person who causes the release of a hazardous material that results in the activation of one or more State Medical Assistance Teams (SMATs) or the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services shall be liable for all reasonable costs incurred by each team or the Epidemiology Section that responds to or mitigates the incident. The Secretary of Health and Human Services shall invoice the person liable for the hazardous materials release and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred."

SECTION 3.1.(b) Article 1 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-20.01. Action for the recovery of costs of hazardous materials emergency medical response.**

A person who causes the release of a hazardous material that results in the activation of one or more State Medical Assistance Teams (SMATs) or the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services shall be liable for all reasonable costs incurred by each team or the Epidemiology Section that responds to or mitigates the incident. The Secretary of Health and Human Services shall invoice the person liable for the hazardous materials release and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred."

SECTION 3.1.(c) This section is effective when it becomes law and applies to civil actions filed on or after that date.

CLARIFY THAT MUNICIPAL 911 DATA HAS THE SAME CONFIDENTIALITY AS COUNTY 911 DATA AND THAT DATA CONTAINED IN A REVERSE 911 EMERGENCY NOTIFICATION SYSTEM IS CONFIDENTIAL

SECTION 3.2.(a) G.S. 132-1.5 reads as rewritten:

"§ **132-1.5. 911 database.**

Automatic number identification and automatic location identification information that consists of the name, address, and telephone numbers of telephone ~~subscribers which~~ subscribers, or the e-mail addresses of subscribers to an electronic emergency notification or reverse 911 system, that is contained in a county or municipal 911 ~~database~~ database, or in a county or municipal telephonic or electronic emergency notification or reverse 911 system, is confidential and is not a public record as defined by Chapter 132 of the General Statutes if that information is required to be confidential by the agreement with the telephone company by which the information was obtained. Dissemination of the information contained in the ~~911~~ 911, electronic emergency notification or reverse 911 system, or automatic number and automatic location database is prohibited except on a call-by-call basis only for the purpose of handling emergency calls or for training, and any permanent record of the information shall be secured by the public safety answering points and disposed of in a manner which will retain that security except as otherwise required by applicable law."

SECTION 3.2.(b) This section is effective when it becomes law.

PART IV. STUDIES

ESTABLISH A TASK FORCE TO REVIEW THE STATE BUILDING CODE TO ENSURE THAT THE CODE ADDRESSES THE NEEDS AND SAFETY OF THE CITIZENS OF THE STATE WITH RESPECT TO THE REGULATION OF FACILITIES THAT STORE, TREAT, OR DISPOSE OF HAZARDOUS MATERIALS; TO MANDATE THE NORTH CAROLINA BUILDING CODE COUNCIL TO AMEND THE STATE BUILDING CODE TO IMPLEMENT ANY RECOMMENDATIONS OF THE TASK FORCE; AND TO ALLOW STATE AND LOCAL FIRE INSPECTORS TO IDENTIFY ALL RISKS ASSOCIATED WITH HAZARDOUS MATERIALS

SECTION 4.1.(a) Task Force Established. – There is established the Regulation of Hazardous Materials Facilities Task Force.

SECTION 4.1.(b) Definitions. – As used in this section "hazardous material" means hazardous materials, as defined in G.S. 166A-21, hazardous waste, as defined in G.S. 130A-290, hazardous substances, as defined in G.S. 143-215.77, and hazardous chemicals, as defined in G.S. 95-174.

SECTION 4.1.(c) Membership. – The Task Force shall consist of 15 members as follows:

(1) The Secretary of Environment and Natural Resources or the Secretary's designee.

(2) The Commissioner of Insurance or the Commissioner's designee.

(3) Three persons appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, one of whom shall be a member of the North Carolina Association of Fire Marshals and one of whom shall be a fire marshal or inspector from the western region of the State.

(4) Three persons appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, one of whom shall be a member of the North Carolina Fire Chiefs Association and one of whom shall be a fire marshal or inspector from the eastern region of the State.

(5) A member from one of the seven North Carolina Regional Response Teams for Hazardous Materials Response appointed by the Governor.

(6) A fire marshal or inspector from the central region of the State appointed by the Governor.

(7) Two members of the Building Code Council appointed by the Chair of the Council.

(8) A person who is engaged in an industrial manufacturing process that uses hazardous chemicals, hazardous materials, or hazardous substances, or that generates hazardous waste appointed by the President of the Manufacturers and Chemical Industry Council of North Carolina.

(9) An owner or operator of a commercial hazardous waste facility appointed by the Governor.

(10) A member of the general public appointed by the Governor.

SECTION 4.1.(d) Appointments. – Appointments to the Task Force shall be made no later than 1 September 2007. A vacancy in the Task Force or as chair of the Task Force resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

SECTION 4.1.(e) Chair; Quorum; Meetings. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Task Force. The cochairs shall call the initial meeting of the Task Force on or before 1 October 2007. A majority of the members of the Task Force shall constitute a quorum. The Task Force may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 4.1.(f) Duties of Task Force. – The Task Force shall study issues related to the treatment, storage, and disposal of hazardous materials and shall review all current fire code regulations regarding the commercial treatment, storage, and disposal of hazardous materials to ensure that the Code addresses the needs and safety of the citizens of the State. In particular, the Task Force shall:

(1) Review the facts and issues related to the Environmental Quality Industrial Services facility fire in Apex, North Carolina, on 5 October 2006. The Task Force shall review the investigation report and determine whether the fire could have been prevented by additional, or more specific, State regulations.

(2) Analyze all fire inspection or investigation reports of fires that have occurred at commercial facilities that treat, store, or dispose of hazardous materials within the past 10 years and determine if there is a trend in violations.

(3) Review the current State Building Code with respect to allowable hazardous materials quantities and determine if the State Building Code should be amended to provide for an additional classification of mixed waste or unidentifiable materials.

(4) Analyze the current definitions of high hazard facilities and high hazardous Group H classifications in the State Building Code and determine whether commercial facilities that treat, store, or dispose of hazardous materials should be classified so that mixed wastes and unidentifiable materials can be easily identified.

(5) Review the current annual fire inspection process at permitted commercial hazardous waste facilities, as defined in G.S. 130A-295.01, that are treatment, storage, and disposal facilities to determine how the annual fire inspection can be conducted in collaboration with the inspection and permitting process of the Department of Environment and Natural Resources.

(6) Review the sprinkler requirements for Hazardous Materials Facilities (Section 903.2.4) of the State Building Code and determine whether sprinkler design criteria and coverage should be amended.

(7) Review the fire alarm requirements for Hazardous Materials Facilities (Section 907.2.5) of the State Building Code and determine whether the relevant facilities should have a full fire alarm system or, in the alternative, full staffing as recommended by the Department of Environment and Natural Resources. If the Task Force determines that relevant facilities should have full staffing, the Task Force shall recommend the level of knowledge and training that should be required of the staff.

(8) Determine when any rules recommended by the Task Force should become effective for existing commercial hazardous waste facilities.

SECTION 4.1.(g) Expenses of Members. – Members of the Task Force shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 4.1.(h) Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer may assign professional and clerical staff and other services and supplies, as needed, for the Task Force to carry out its duties in an effective manner.

SECTION 4.1.(i) Cooperation by Government Agencies. – The Task Force may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 4.1.(j) Report. – The Task Force shall submit a report of its findings and recommendations, including legislative proposals, to the 2008 Regular Session of the 2007 General Assembly, the Governor, the North Carolina Building Code Council, and the Environmental Review Commission on or before 1 April 2008. The Task Force shall terminate upon filing its report.

SECTION 4.1.(k) North Carolina Building Code Council to Adopt Rules. – The North Carolina Building Code Council shall adopt rules or amend the State Building Code to implement the recommendations of the Regulation of Hazardous Materials Facilities Task Force. In particular, the Building Code Council shall adopt rules or amend the State Building Code to require that hazardous materials are classified and identified in a manner that provides State and local inspectors with sufficient information to identify all potential risks to the citizens of the State.

SECTION 4.1.(l) This section becomes effective 1 July 2007.

STUDY POTENTIAL SOURCES OF PERMANENT FUNDING FOR THE STATE MEDICAL ASSISTANCE TEAMS

SECTION 4.2.(a) The Department of Crime Control and Public Safety and the Department of Health and Human Services shall jointly identify and evaluate sources of permanent funding for State Medical Assistance Teams in light of the

uncertain future availability of federal and local funding. The Department shall jointly report its findings and recommendations, including any legislative proposals, to the Fiscal Research Division on or before 1 January 2008.

SECTION 4.2.(b) This section is effective when it becomes law.

PART V. OTHER RECOMMENDATIONS

REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH A DIGITAL INFORMATION EXCHANGE SYSTEM FOR A HAZARDOUS CHEMICALS INVENTORY DATABASE

SECTION 5.1.(a) The Division of Information Technology Services of the Department of Environment and Natural Resources, in collaboration with the Division of Emergency Management of the Department of Crime Control and Public Safety, shall establish a Tier II Hazardous Chemicals Inventory Database and Web-based access application that will accept uploads of Tier II data from local government systems acting as partners in the project and from the University of Texas at Dallas E-Plan repository until all Tier II hazardous chemical inventory is in the database. The database shall include data on sites listed in the planned Toxic Release Inventory exchange and the Department's existing Facilities Registry System. The Facilities Registry System is a database of facilities for which the Department has environmental concerns, including facilities that are subject to an environmental permit for water, air, waste, land quality, wetlands, public water supply, wastewater treatment, and other environmental permits. The database shall be connected via Web services to the North Carolina Exchange Node. The purposes of this database are to provide a one-stop, real-time information source for all hazardous and toxic materials release sites and all sites that are subject to an environmental permit in order to enhance the operational effectiveness of the Department of Environment and Natural Resources, the Division of Emergency Management of the Department of Crime Control and Public Safety, first responders and emergency management officials, local government officials, and any others with a role in emergency management or planning; to remove the burden of data reentry in multiple systems; to reduce the dependence on paper submissions for Tier II reporting; to extend the Network for the Exchange Node community; and to reuse information already deployed at the Department. The Tier II Hazardous Chemicals Inventory Database and Web-based access application shall be maintained by the Division of Emergency Management of the Department of Crime Control and Public Safety.

SECTION 5.1.(b) This section becomes effective 1 July 2007.

REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEVELOP A MODEL PLAN FOR PUBLIC HEALTH RESPONSE TO EVENTS WITH A POTENTIAL FOR CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL CONTAMINATION

SECTION 5.2.(a) The Occupational and Environmental Epidemiology Branch of the Division of Public Health of the Department of Health and Human Services shall contract with an industrial hygienist who shall develop a model plan for public health response to events with a potential for chemical, biological, or radiological contamination. The plan shall address all stages of the contamination event. The

contract shall provide for the services of the industrial hygienist for up to 18 months. The contract shall require the industrial hygienist to:

(1) Develop a model plan and a training program that provides for training in all North Carolina counties.

(2) Analyze existing environmental data related to the hazardous waste facilities in the State, develop a statement of need for the integration of that data, and recommend any additional tests that may be needed, including tests to establish background levels of selected hazardous materials.

(3) Initiate and facilitate a staff-level work group of federal, State, and local response personnel to provide continuity and to assist with the development of best practice response protocols.

SECTION 5.2.(b) This section becomes effective 1 July 2007.

AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ESTABLISH AN INSTITUTE FOR DISASTER STUDIES AND AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA TO STUDY THE EMISSION AND TRANSPORT OF POLLUTANTS AT FIRES AT COMMERCIAL HAZARDOUS WASTE FACILITIES AND THE HEALTH AND ECONOMIC IMPACTS OF SUCH FIRES

SECTION 5.3.(a) The Board of Governors of The University of North Carolina may establish a multidisciplinary, interinstitutional, basic and applied research program that applies state-of-the-art concepts and technologies to address disaster research questions and to assist the campuses within The University of North Carolina to develop crisis management and crisis communications systems that will help individual campuses to better prepare in the event of a disaster.

SECTION 5.3.(b) The University of North Carolina may study the emission and transport of pollutants at fires at commercial hazardous waste facilities, as defined in G.S. 130A-295.01, and may study the human health and economic impacts of fires at commercial hazardous waste facilities.

SECTION 5.3.(c) This section becomes effective 1 July 2007.

PART VI. MISCELLANEOUS PROVISIONS

EFFECT OF HEADINGS

SECTION 6.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SEVERABILITY CLAUSE

SECTION 6.2. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATES

SECTION 6.3. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 2:46 p.m. on the 26th day of June, 2007.

Session Law 2007-108 **House Bill 885**

AN ACT TO PERMIT THE TOWNS OF APEX AND MORRISVILLE TO LEVY A MOTOR VEHICLE PRIVILEGE TAX OF UP TO FIFTEEN DOLLARS FOR EACH RESIDENT VEHICLE LOCATED IN THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the Towns of Apex and Morrisville only.

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

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ fifteen dollars ($15.00) per year upon any vehicle resident in the city or town. The proceeds of the tax up to five dollars ($5.00) may be used for any lawful purpose. The proceeds of these taxes derived from any levy above five dollars ($5.00) and up to fifteen dollars ($15.00) shall be used exclusively for transportation-related purposes, including sidewalks."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-109 **House Bill 1112**

AN ACT TO AUTHORIZE THE TOWN OF MATTHEWS TO USE PROCEEDS FROM THE MOTOR VEHICLE TAX, ASSESSED PURSUANT TO G.S. 20-97, FOR ROAD CONSTRUCTION, MAINTENANCE, AND REPAIR, INCLUDING SIDEWALKS, OR FOR PUBLIC MASS TRANSIT SYSTEMS AND MASS TRANSIT-RELATED ACTIVITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-97(a), as applicable to the Town of Matthews under S.L. 1985-1009, S.L. 1991- 209, and S.L. 1993-345, reads as rewritten:

"(a) All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of the public highways of this State, and shall be paid by the Commissioner to the State Treasurer, to be credited by him to the State Highway Fund; and no county or municipality shall levy any license or privilege tax upon any motor vehicle licensed by the State of North Carolina, except that cities and towns other than the City of Durham may levy not more than thirty dollars ($30.00) per year upon any vehicle resident therein, and except that the City of Durham may levy not more than one dollar ($1.00) per year upon any vehicle resident therein. Provided, further, that cities and towns may levy, in addition to the amounts hereinabove provided for, a sum not to exceed fifteen dollars ($15.00) per year upon each vehicle operated in

such city or town as a taxicab. Provided, further that any tax levied in excess of twenty dollars ($20.00) per year per vehicle by the City of Charlotte ~~and any tax levied in excess of five dollars ($5.00) per year per vehicle by the Town of Matthews~~ shall be dedicated to and may be expended only for public mass transit systems and mass transit-related activities."

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

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ thirty dollars ($30.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for ~~any lawful purpose.~~road construction, maintenance, and repair, including sidewalks, or for public mass transit systems and mass transit-related activities."

SECTION 3. This act applies to the Town of Matthews only.

SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-110 **House Bill 1193**

AN ACT ADDING NONCONTIGUOUS MUNICIPAL OWNED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF RAMSEUR.

The General Assembly of North Carolina enacts:

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

TRACT 1:

BEGINNING at a point in the Northern right of way of Wallace Street (Lake Access Road), lying in the southern line of Jeffrey S. Lineberry (Deed Book 1557, Page 338 Randolph County Registry); thence along J. Lineberry's line in part and the lake in part the following courses and distances: South 86º 00' 47" East 815.290 feet to a point; thence South 86º08'47" East 62.480 feet to a point: thence North 00º40'14" West 235.670 feet to a point; thence North 83º34'09" East 287.110 feet to a point; thence North 10º21'34" West 164.860 feet to a point; thence North 39º14'12" West 101.530 feet to a point; then North 14°25'09" West 61.090 feet to a point; thence North 37º47'12" West 102 feet to a point, the common courses of J. Lineberry and S. J. Lineberry (Deed Book 1384, Page 555); thence along S. J. Lingberry's line with the lake, the following courses and distances: North 29º02'16" West 97.730 feet to a point; thence North 43º36'13" West 127.350 feet to a point; thence North 80º03'40" West 56.640 feet to a point; thence South 56º35'32" West 100.140 feet to a point; thence South 77º48'51" West 66.510 feet to a point; thence North 39º00'55" West 71.230 feet to a point, the common corner of S. J. Lineberry and Ernest W. Newby (Deed Book 1741, Page 429); thence along Newby's line with the lake the following courses and distances: thence North 11º00'03" East 117.660 feet to a point; thence North 02º51'46" East 104.780 feet to a point; thence North 32º46'04" West 138.370 feet to a point; thence North 37º55'21" West 67.080 feet to a point; thence South 76º50'07" West 100.290 feet to a point; thence North 35º42'13" West 45.820 feet to a point; thence North 15º07'30" East 136.500 feet to a point; thence North 15º07'30" East 58.180 feet to a point, the common corner of Newby and David J. Cross (Deed Book 1436, Page 436);

thence along line of Cross with the lake North 01º15'41" East 126.930 feet to a point; thence North 24º48'14" West 134.650 feet to a point; thence North 54º25'02" East 98.030 feet to a point; thence along Cross in part and Samuel T. Jones in part with the lake (Deed Book 1171, Page 973) North 07º23'18" West 171.620 feet; thence continuing along Jones line with the lake, the following courses and distances: North 12º51'05" East 79.450 feet to a point, thence South 89º31'48" East 58.610 feet to a point; thence North 52º14'26" East 112.240 feet to a point; thence North 30º16'16" East 85.130 feet to a point, the common corner of another Samuel T. Jones tract (Deed Book 1739, Page 1511); thence continuing along Jones tract (Deed Book 1739, Page 1511) and the lake the following courses and distances: North 30º16'16" East 270.430 feet to a point; thence North 15º06'12" West 66.530 feet to a point; thence North 89º07'42" West 47.800 feet to a point; thence South 61º57'07" West 158.400 feet to a point; thence South 68º14'01" West 149.660 feet to a point; thence South 56º42'16" West 87.760 feet to a point; thence South 35º20'57" West 100.220 feet to a point; thence North 86º47'30" West 113.500 feet to a point; thence North 56º07'40" West 120.970 feet to a point; thence South 64º04'15" West 97.340 feet to a point; thence North 00º14'30" East 31.860 feet to a point; thence North 89º45'30" West 99.000 feet to a point; thence South 00º14'30" West 59.890 feet to a point; thence North 84º41'59" West 36.590 feet to a point; thence North 37º00'16" West 99.150 feet to a point; thence North 77º07'35" West 79.340 feet to a point in the line of Harley Land Co., LLC (Deed Book 1744, Page 2638); thence along Harley Land Co., LLC's line with the lake South 89º25'36" East 200.390 feet to a point; thence North 62º05'41" East 104.390 feet to a point; thence North 84º58'48" East 173.230 feet to a point; and thence North 49º51'09" East 250.270 feet to a point; thence North 20º06'59" West 123.590 feet to a point; thence South 78º14'08" East 134.650 feet to a point; thence North 54º29'12" East 112.940 feet to a point; thence North 29º39'33" East 79.960 feet to a point; thence North 03º44'10" West 69.070 feet to a point; thence North 38º36'41" West 126.680 feet to a point; thence North 30º41'43" West 164.24 feet to a point; thence North 65º40'51" West 137.170 feet to a point; thence North 04º01'41" West 70.680 feet to a point; thence North 17º09'18" West 251.430 feet to a point; thence North 08º43'13" West 74.940 feet to a point; thence South 47º23'21" East 80.140 feet to a point; thence South 39º32'58" East 113.430 feet to a point; thence South 51º29'01" East 308.880 feet to a point; thence North 52º30'39" East 66.290 feet to a point; thence South 20º28'25" East 49.290 feet to a point; thence North 88º30'17" East 62.600 feet to a point; thence North 35º09'16" East 62.880 feet to a point; thence South 06º07'44" West 163.660 feet to a point; thence South 23º49'57" East 108.900 feet to a point; thence South 42º34'26" East 193.510 feet to a point; thence South 77º59'40" East 87.280 feet to a point; thence North 54º48'46" East 85.170 feet to a point; thence North 37º28'28" East 207.390 feet to a point; thence North 31º23'08" East 95.630 feet to a point; thence North 58º51'47" East 112.110 feet to a point; then North 33º17'26" East 105.060 feet to a point; thence North 18º07'06" West 234.800 feet to a point; thence North 31º05'24" West 140.620 feet to a point; thence North 13º10'11" West 69.250 feet to a point; thence North 36º18'00" West 153.820 feet to a point; thence North 43º14'57" West 398.150 feet to a point; thence North 30º50'41" West 172.520 feet to a point; thence South 48º31'12" East 248.770 feet to a point in the line of David F. Holladay (W.B. 97E, Page 65) thence along Holladay's line with the lake the following courses and distances: South 83º41'11" East 80.620 feet to a point; thence North 65º08'01" East 46.540 feet to a point; thence South 19º34'26" West 58.950 feet to a point; thence South 43º30'35" East 74.230 feet to a point; thence South 65º35'01" East 55.700 feet to a point; thence South 39º55'32" East 95.020 feet to a point; thence South

46º36'30" East 105.990 feet to a point; thence South 78º55'52" East 110.830 feet to a point; thence South 24º40'01" East 99.340 feet to a point; thence South 53º48'56" East 128.900 feet to a point; thence North 51º55'40" East 62.510 feet to a point; thence North 24º19'03" East 122.630 feet to a point: thence North 41º30'31" East 93.750 feet to a point; thence North 27º43'56" east 85.770 feet to a point; thence North 01º54'01" East 64.810 feet to a point; thence North 46º17'02" East 50.890 feet to a point; thence North 03º01'13" West 70.120 feet to a point; thence North 33º06'59" West 337.520 feet to a point; thence South 68º13'18" East 110.520 feet to a point; thence North 87º25'23" East 61.260 feet to a point; thence North 22º47'03" East 112.460 feet to a point; thence North 16º33'58" West 101.270 feet to a point; thence North 18º08'20" East 61.220 feet to a point; thence North 05º26'37" West 85.340 feet to a point; thence South 29º07'40" East 104.500 feet to a point; thence South 16º45'46" East 67.710 feet to a point; thence South 40º01'43" East 74.740 feet to a point; thence South 54º45'29" East 180.930 feet to a point; thence South 88º06'24" East 57.410 feet to a point; thence North 56º41'15" East 199.570 feet to a point; thence North 40º50'28" East 62.400 feet to a point; thence South 80º08'09" East 99.280 feet to a point; thence North 66º01'08" East 74.060 feet to a point; thence North 19º41'29" East 62.310 feet to a point; thence North 41º27'04" East 85.870 feet to a point; thence North 04º16'52" East 184.060 feet to a point; thence North 09º04'32" West 154.090 feet to a point; thence North 46º14'52" West 68.380 feet to a point; thence North 18º17'34" East 80.220 feet to a point; thence North 14º54'06" West 55.680 feet to a point; thence North 48º40'11" West 95.260 feet to a point; thence North 82º47'22" East 132.320 feet to a point; thence North 37º41'36" East 66.250 feet to a point; thence North 00º18'36" East 125.350 feet to a point; thence South 81º47'46" East 131.590 feet to a point; thence North 59º14'44" East 213.900 feet to a point; thence North 33º50'45" East 211.060 feet to a point; thence North 52º10'57" East 150.770 feet to a point; thence North 34º12'54" East 115.620 feet to a point; thence North 58º04'00" West 231.750 feet to a point; thence South 87º06'08" West 125.890 feet to a point; thence North 29º07'29" East 103.670 feet to a point; thence North 28º35'58" West 115.840 feet to a point; thence South 82º57'07" West 168.500 feet to a point; thence North 49º17'16" East 128.740 feet to a point; thence North 07º00'18" East 62.550 feet to a point; thence North 30º25'46" West 138.760 feet to a point; thence North 54º15'02" West 61.460 feet to a point; thence South 86º17'42" West 96.920 feet to a point; thence South 57º12'32" West 146.670 feet to a point; thence North 29º52'28" East 160.150 feet to a point; thence North 11º30'23" East 85.380 feet to a point; thence North 23º33'53" West 119.800 feet to a point; thence North 42º59'19" West 165.320 feet to a point; thence North 17º43'58" West 15.020 feet to a point; thence North 17º43'58" West 45.050 feet to a point, a common corner of Holladay and Charles H. Fricke, IV (Deed Book 1380, Page 650); thence along Fricke's line with the lake the following courses and distances: North 10º12'35" East 74.600 feet to a point; thence North 20º42'06" West 159.000 feet to a point; thence North 02º50'26" West 100.150 feet to a point; thence North 07º18'59" West 83.770 feet to a point; thence North 32º21'51" West 115.270 feet to a point; thence North 51º57'01" West 39.200 feet to a point in line of Billy R. Brewer (Deed Book 1015, page 240); thence along Brewer's line with the lake the following courses and distances: North 51º57'00" West 42.450 feet to a point; thence South 62º23'56" West 167.550 feet to a point; thence South 50º35'59" West 165.350 feet to a point; thence North 78º43'24" West 73.250 feet to a point in Billy R. Brewer's additional tract (Deed 1197, Page 645) thence continuing along Brewer's line South 76º12'18" West 147.470 feet to a point; thence South 82º07'41" West 150.620 feet to a point; thence South 67º27'44" West 35.290 feet to a point in line of Mary S. Brewer

(Deed Book 1040, Page 1); thence along Mary Brewer's line with the lake South 67º27'44" West 122.800 feet to a point; thence South 31º08'42" West 69.260 feet to a point in line of David W. Stewart (Deed Book 1530, Page 632); thence along Stewart's line with the lake South 56º50'12" West 14.400 feet to a point; thence South 56º50'11" West 126.980 feet to a point; thence South 76º17'00" West 122.080 feet to a point; thence North 51º02'08" East 155.140 feet to a point; thence North 33º00'12" East 34.210 feet to a point common with Mary S. Brewer (Deed Book 1040, Page 1) and thence along Mary Brewer's line with the lake; thence N 33º00'12" East 160.250 feet to a point common with Billy R. Brewer's line on the lake (Deed Book 1197, Page 645) and thence along Billy Brewer's line with the lake North 64º40'04" East 11.120 feet to a point; thence North 64º40'03" East 145.480 feet to a point; thence North 85º14'36" East 129.620 feet to a point in Billy Brewer's additional tract (Deed Book 1015, page 240) and thence along Billy Brewer's line with the lake North 59º33'21" East 176.680 feet to a point; thence North 83º45'19" East 117.820 feet to a point; thence North 61º03'45" East 125.770 feet to a point; thence North 05º54'47" West 83.730 feet to a point; thence N 58º15'10" West 100.340 feet to a point in line of Armeta Greeson (Deed Book 91E, Page 651) and thence along Armeta Greeson's line along the lake the following courses and distances: North 36º39'08" West 107.260 feet to a point; thence North 36º39'06" West 228.530 feet to a point; thence North 44º47'21" West 232.640 feet to a point; thence North 55º04'02" West 101.920 feet to a point; thence North 33º27'59" West 99.350 feet to a point; thence North 43º18'11" West 350.140 feet to a point; thence North 58º00'03" West 138.700 feet to a point; thence South 78º43'29" East 214.560 feet to a point; thence South 36º31'11" East 100.330 feet to a point; thence South 62º25'15" East 198.380 feet to a point; thence South 72º18'58" East 79.750 feet to a point; thence South 54º16'24" East 96.300 feet to a point; thence North 76º12'08" East 88.920 feet to a point; thence South 77º58'16" East 141.050 feet to a point; thence South 70º34'33" West 39.580 feet to a point; thence North 81º43'53" West 71.080 feet to a point; thence South 41º28'32" West 68.970 feet to a point; thence South 20º20'13" East 106.930 feet to a point; thence South 40º54'17" East 177.690 feet to a point; thence South 50º52'06" East 178.080 feet to a point; thence South 66º24'28" East 105.42 feet to a point; thence South 26º03'30" East 81.290 feet thence to point in the line of Charles H. Fricke, IV (Deed Book 1380, Page 650); thence along Fricke's line with the lake North 86º09'35" East 24.850 feet to a point; thence North 86º09'35" East 92.430 feet to a point; thence North 36º17'57" East 119.420 feet to a point; thence South 07º36'06" East 133.580 feet to a point; thence South 39º54'32" East 86.390 feet to a point; thence South 06º45'26" East 109.600 feet to a point; thence North 37º59'10" East 127.270 feet to a point; thence North 35º49'39" East 131.10 feet to a point; thence North 76º30'13" East 401.810 feet to a point; thence North 25º12'36" East 82.430 feet to a point; thence North 39º59'21" West 46.940 feet to a point; thence North 74º02'32" East 56.490 feet to a point; thence North 24º13'38" East 158.210 feet to a point; thence North 11º08'18" West 134.030 feet to a point; thence North 78º11'28" East 76.160 feet to a point; thence North 36º43'28" East 111.770 feet to a point; thence North 27º36'14" East 189.770 feet to a point in the line of Jack B. Brown (W.B. 91E, Page 651); thence along Brown's line with the lake North 27º36'14" East 48.590 feet to a point; thence North 03º23'17" West 64.940 feet to a point; thence North 31º19'10" East 279.630 feet to a point; thence North 12º39'12" West 78.330 feet to a point; thence North 31º21'19" East 122.050 feet to a point; thence South 12º47'22" East 81.620 feet to a point; thence South 38º27'30" East 84.110 feet to a point; thence South 84º17'27" East 115.820 feet to a point; thence South 81º35'39" East 125.480 feet to a point; thence North 67º45'30" East 270.710 feet to a point; thence

North 53º40'46" East 258.000 feet to a point; thence North 20º23'48" East 189.680 feet to a point; thence North 03º37'04" East 143.010 feet to a point; thence North 31º35'47" East 180.840 feet to a point, thence N 60º19'19" East 44.200 feet to a point in the line of Marion G. Frazier (Deed Book 1310, Page 196); thence along Fraizer's line with the lake North 60º19'18" East 166.140 feet to a point; thence South 32º27'38" East 130.120 feet to a point; thence South 59º31'19" East 289.810 feet to a point; thence South 85º10'38" East 121.810 feet to a point; thence North 29º04'22" East 188.140 feet to a point; thence North 05º51'43" West 156.070 feet to a point; thence North 31º28'26" West 152.320 feet to a point; thence North 21º17"'57" West 370.330 feet to a point; thence North 03º32'37" West 424.000 feet to a point; thence North 55º24'30" West 191.000 feet to a point; thence North 68º31'04" East 136.420 feet to a point; thence North 00º04'10" West 304.850 feet to a point; thence North 20º11'41" East 26.180 feet to a point, in the line of Colon Ellison (Deed Book 1533, page 568) and the right-of-way of Mulbery Academy Street; thence along Ellison's line with the lake North 20º11'41" East 130.910 feet to a point; thence North 15º43'37" West 147.190 feet to a point; thence North 12º02"'28" West 383.970 feet to a point; thence North 14º31'12" West 191.630 feet to a point; thence North 09º38'42" West 197.870 feet to a point; thence North 03º24'47" West 218.200 feet to a point; thence North 16º49'02" West 138.090 feet to a point; thence North 10º23'25" West 156.060 feet to a point; thence North 07º31'50" West 222.110 feet to a point; thence North 05º19'13" East 203.960 feet to a point; thence North 09º52'35" West 218.050 feet to a point; thence North 26º20'42" West 112.360 feet to a point; thence North 12º04'55" West 154.900 feet to a point; thence North 39º11'58" West 82.210 feet to a point; thence North 00º40'58" West 68.590 feet to a point in the line of Thomas A. Clayton (Deed Book 1221, Page 1748); thence along Clayton's line with the lake North 00º40'58" West 68.620 feet to a point; thence North 17º34'21" East 108.970 feet to a point; thence North 45º04'27" East 63.640 feet to a point; thence North 23º17'17" West 108.130 feet to a point; thence North 32º07'50" East 63.830 feet to a point; thence South 18º33'48" east 146.460 feet to a point; thence North 88º35'22" East 135.480 feet to a point; thence North 45º31'44" East 97.110 feet to a point; thence North 08º01'23" East 152.030 feet to a point; thence North 05º40'17" East 147.330 feet to a point; thence South 82º22'15" East 50.000 feet to a point in the line part of Clayton and part of Sandy Ridge Sub. (Plat Book 53, Page 3); thence along the following courses and distances: South 82º22'15" East 50.100 feet to a point; thence South 07º18'24" West 117.140 feet to a point; thence North 42º40'22" East 82.510 feet to a point; thence North 81º24'31" East 71.190 feet to a point; thence South 46º29'27" West 194.020 feet to a point; thence South 28º05'08" East 61.910 feet to a point; thence South 35º30'04" West 174.300 feet to a point; thence South 48º20'49" West 77.220 feet to a point; thence South 78º47'19" West 200.470 feet to a point; thence S. 07º01'06" West 139.66 feet to a point; thence South 27º30'41" East 161.740 feet to a point the corner of Lot 21, Sandy Ridge Subdivision; thence South 21º41'13" East 157.490 feet to a point the common corner of Lot 21 & Lot 20, Sandy Ridge Subdivision; thence following the line with the lake South 12º01'38" East 224.340 feet to a point; thence South 07º06'54" East 158.260 feet to a point; thence North 82º38'36" East 46.420 feet to a point; thence South 05º46'53" East 41.800 feet to a point; thence South 61º54'22" West 47.700 feet to a point; thence South 09º36'56" East 111.650 feet to a point; thence North 27º29'31" East 61.280 feet to a point in common line of Lots 18 & 17 Sandy Ridge Subdivision; thence following the line with the lake South 76º43'07" East 139.390 feet to a point; thence South 55º28'57" West 90.970 feet to a point; thence South 82º59'54" West 85.860 feet to a point; thence South 01º42'57" West 189.990 feet

to a point in common line of Lots 17 & 16 Sandy Ridge Subdivision; thence South 43º51'03"East 125.970 feet to a point; thence South 06º17'16" East 167.580 feet to a point in common line of Lots 16 & 15 Sandy Ridge Subdivision; thence South 04º15'41" East 228.110 feet to a point; thence South 12º12'24" East 237.680 feet to a point; thence South 18º55'38" East 226.150 feet to a point; thence South 20º21'56" East 187.670 feet to a point; thence North 30º23'09" East 180.410 feet to a point; thence North 26º43'52" East 172.020 feet to a point in common line of Lots 14 & 13 Sandy Ridge Subdivision; thence North 17º23'56" East 143.610 feet to a point; thence South 23º22'14" East 72.810 feet to a point; thence North 31º00'47" East 181.690 feet to a point; thence North 36º10'14" East 178.960 feet to a point; thence North 19º47'51" East 120.070 feet to a point; thence N 03º57'57" East 63.200 feet to a point in common line of Lots 13 & 12 Sandy Ridge Subdivision; thence North 61º52'17" East 119.660 feet to a point; thence North 86º37'34" East 101.54 feet to a point in common line of Lots 11 & 10 Sandy Ridge Subdivision; thence North 67º30'43" East 136.880 feet to a point in common line of Lots 10 & 9 Sandy Ridge Subdivision; thence North 41º13'12" East 102.090 feet to a point in line of Lot 9 Sandy Ridge Subdivision; thence following line with lake North 71º43'27" East 111.970 feet to a point; thence North 82º47'54" East 148.130 feet to a point in line of John C. Wallace (Deed Book 1603, Page 907); thence following Wallace's line with the lake South 82º54'37" East 27.470 feet to a point; thence South 82º54'38" East 108.510 feet to a point; thence North 16º49'53" East 115.930 feet to a point in line of Melissa L. Moore (Deed Book 1666, Page 122) thence along Moore's line with the lake North 51º51'41" East 201.47 feet to a point; thence South 56º40'24" East 119.890 feet to a point; thence South 23º48'55" East 157.420 feet to a point in line of Harvey L. Frazier (Deed Book 1375, page 640) thence along H. Frazier's line with lake North 60º00'11" East 129.030 feet to a point; thence South 00º59'27" East 140.500 feet to a point; thence South 24º08'15" West 68.490 feet to a point; thence South 78º49'11" East 112.690 feet to a point; thence North 89º38'26" East 280.870 feet to a point; thence South 07º43'31" East 211.370 feet to a point; thence South 07º43'30" East 23.400 feet to a point; thence South 43º42'59" East 119.770 feet to a point; thence South 57º27'17" East 179.610 feet to a point the common corner of James D. Frazier (Deed Book 1392, Page 306) and Philip D. Frazier (Deed Book 1375, Page 642); thence along Phillip Frazier's line with the lake South 35º33'08" East 28.890 feet to a point; thence South 81º09'32" West 179.390 feet to a point; thence South 87º30'28" West 84.700 feet to a point; thence South 87º30'28" West 98.460 feet to a point in line of Sandra F. Frazier (Deed Book 1453, Page 1528); thence along Sandra Fraizer's line with the lake South 75º38'02" West 185.700 feet to a point; thence North 80º01'40" West 242.790 feet to a point; thence North 65º44'45" West 229.830 feet to a point; thence North 60º38'09" West 242.600 feet to a point in line of Marion G. Frazier (W.B. 91E, Page 651); thence along line of Marion Frazier with lake South 72º41'22" West 93.879 feet to a point; thence South 54º50'52" West 147.330 feet to a point; thence South 54º06'01" West 134.310 feet to a point; thence South 74º34'52" West 71.090 feet to a point; thence South 75º24'42" West 99.870 feet to a point; thence South 62º33'39" West 123.240 feet to a point; thence South 86º06'02" West 85.750 feet to a point; thence South 38º41'45" West 211.850 feet to a point; thence South 00º38'33" West 69.110 feet to a point; thence South 56º34'51" West 53.780 feet to a point; thence South 39º59'51" West 201.990 feet to a point; thence South 29º28'54" West 161.030 feet to a point; thence South 45º11'08" East 56.660 feet to a point; thence South 68º16'35" West 43.780 feet to a point; thence South 09º11'23" East 59.180 feet to a point; thence South 31º15'51" West 89.120 feet crossing Mulbery Academy Street to a point; thence South

03º29'28" East 190.250 feet to a point continuing along Marion Frazier's line with the lake South 22º48'15" East 217.130 feet to a point; thence South 01º46'23" West 105.360 feet to a point; thence South 25º04'05" East 206.860 feet to a point; thence South 02º33'39" East 210.000 feet to a point; thence South 14º08'52" East 170.510 feet to a point; thence South 47º44'02" East 221.260 feet to a point; thence North 59º27'41" East 107.550 feet to a point; thence South 27º49'59" East 267.190 feet to a point; thence South 70º34'11" West 119.680 feet to a point; thence North 75º48'44" West 123.230 feet to a point; thence South 78º24'31" West 132.900 feet to a point; thence South 27º02'28" West 39.070 feet to a point; thence South 27º02'27" West 138.270 feet to a point in line of John W. Coble (Deed Book 1221, Page 1515); thence along Coble's line with the lake; South 15º42'54" West 193.020 feet to a point; thence South 25º21'04" West 133.190 feet to a point; thence South 18º53'33" West 67.880 feet to a point; thence South 59º10'02" West 199.23 feet to a point; thence South 40º44'55" East 119.83 feet to a point in the line of Frances K. Glasgow (Deed Book 1622, Page 795); thence in Glasgow's line South 86º44'59" West 42.420 feet to a point; thence North 86º51'03"West 78.870 feet to a point common with another tract of Frances D. Glasgow (Deed Book 1622, Page 400); thence with Glasgow's line with the lake North 28º00'45" West 161.920 feet to a point; thence North 56º38'49" West 110.640 feet to a point common with the Frances K. Glasgow tract (Deed Book 1202, Page 785); thence along Frances Glasgow's line with the lake North 56º38'47" West 107.020 feet to a point common with the Frances K. Glasgow tract (Deed Book 1202, Page 795) thence along Glasgow's line with the lake North 63º56'28" West 112.320 feet to a point; thence North 73º39'56" West 130.950 feet to a point; thence South 78º33'18" West 52.540 feet to a point; thence South 01º21'15" West 150.820 feet to a point; thence South 18º43'33" West 124.980 feet to a point; thence South 47º37'43" West 98.880 feet to a point; thence South 27º19'58" East 94.650 feet to a point; thence South 39º24'38" East 101.140 feet to a point; thence North 78º35'18" West 99.890 feet to a point; thence North 40º29'04" West 98.130 feet to a point; thence South 75º10'45" West 78.360 feet to a point; thence South 55º02'45" West 252.030 feet to a point; thence South 50º41'46" West 136.620 feet to a point; thence South 10º58'11" West 77.890 feet to a point in line of Charles E. Glasgow (Deed Book 1688, Page 1077); thence along line of Charles Glasgow with the lake North 52º56'18" West 67.340 feet to a point; thence South 87º59'45" West 137.320 feet to a point; thence North 61º58'19" West 151.840 feet to a point; thence South 45º26'28" West 111.350 feet to a point; thence South 22º58'44" West 249.400 feet to a point South 29º08'25" West 52.440 feet to a point in line of another tract of Charles E. Glasgow (Deed Book 1403, Page 559); thence along line of Charles Glasgow with the lake; thence South 29º08'24" West 24.800 feet to a point; thence South 13º03'03" West 118.490 feet to a point; thence South 20º20'01" West 53.820 feet to a point; thence South 26º51'28" East 37.120 feet to a point; thence South 67º25'33" West 53.130 feet to a point; thence South 24º34'30" West 69.390 feet to a point in common line of Lot 14, Lake Ridge Farm Subdivision, David A. Humble (Deed Book 1400, Page 1624); thence along Humble's line South 24º34'30" West 41.110 feet to a point; thence South 14º23'28" East 199.170 feet to a point in line of Lot 15, Lake Ridge Farm Subdivision; thence along line of Lot 15 North 59º51'37" West 119.500 feet to a point; thence South 41º03'00" West 158.770 feet to a point; thence South 08º11'35" West 151.050 feet to a point; thence North 79º07'08" West 60.790 feet to a point; thence North 85º36'14" West 114.060 feet to a point; thence North 84º36'07" West 66.300 feet to a point; thence South 67º01'05" West 191.900 feet to a point; thence South 44º04'00" West 121.260 feet to a point in line of Lot 16, Lake Ridge Farm Subdivision, Mary T. Robbins (Deed

Book 1421, Page 533); thence along line of Robbins with the lake; South 28º04'38" West 173.110 feet to a point; thence South 34º44'10" East 162.540 feet to a point in common line of Lot 17, Lake Ridge Farm Subdivision, another tract of Mary T. Robbins (Deed Book 1422, page 408); thence along line of Robbins with the lake South 46º57'31" East 81.600 feet to a point; thence South 13º40'30" East 93.450 feet to a point; thence South 59º03'13" East 110.890 feet to a point; thence South 03º46'45" East 56.440 feet to a point; thence South 03º46'45" East 48.260 feet to a point; thence South 28º22'42" East 308.970 feet to a point; thence South 45º45'02" East 289.750 feet to a point; thence North 74º40'32" East 190.170 feet to a point; thence North 54º11'03" East 98.190 feet to a point North 78º13'24" East 146.260 feet to a point in line of Cindy W. Caviness (Deed Book 1652, Page 1034); thence along line of Caviness with lake; South 40º31'54" West 53.520 feet to a point; thence South 76º38'50" West 65.730 feet to a point; thence South 39º03'28" West 73.540 feet to a point; thence South 49º13'47" West 170.970 feet to a point; thence South 01º26'16" West 101.250 feet to a point; thence South 52º06'46" East 122.170 feet to a point; thence South 00º43'35" East 63.990 feet to a point; thence South 00º43'35" East 44.400 feet to a point in line of Alfred W. Coble (Deed Book 1348, Page 1763); thence along line of Coble with the lake South 36º27'18" East 63.810 feet to a point; thence South 00º35'50" East 222.480 feet to a point; thence North 75º19'13" West 123.430 feet to a point; thence South 39º22'23" West 162.790 feet to a point; thence South 51º49'45" West 142.820 feet to a point; thence South 33º20'52" West 316.130 feet to a point; thence South 57º24'28" West 106.070 feet to a point; thence South 21º01'28" West 141.460 feet to a point; thence South 36º50'33" East 120.780 feet to a point; thence North 80º22'47" East 109.050 feet to a point; thence North 40º47'18" East 223.010 feet to a point; thence North 58º43'53" East 149.870 feet to a point; thence North 50º25'26" East 143.380 feet to a point; thence North 63º27'16" East 102.210 feet to a point; thence North 86º17'23" East 234.920 feet to a point; thence South 64º25'04" West 261.170 feet to a point; thence South 30º59'30" West 311.800 feet to a point; thence South 33º45'59" East 99.730 feet in line of George F. Moore (Deed Book 1507, Page 671); thence along line of Moore with the lake South 33º45'59" East 32.050 feet to a point; thence South 09º12'58" East 142.800 feet to a point; thence North 50º22'36" West 78.650 feet to a point; thence North 85º31'53" West 129.070 feet to a point; thence South 42º16'50" West 135.160 feet to a point; thence South 16º41'40" West 141.620 feet to a point in common line of Patricia Y. King (Deed Book 1507, Page 683); thence along line of King with the lake South 18º40'10" East 146.280 feet; thence South 44º18'31" East 197.060 feet to a point in the common line of D. K. York (Deed Book 1523, Page 377); thence along line of D.K. York with the lake South 01º46'36" West 181.800 feet to a point; thence North 75º31'19" West 82.240 feet to a point; thence North 34º24'27" West 161.400 feet to a point; thence North 73º31'48" West 107.320 feet to a point; thence South 54º11'09" West 174.830 feet to a point; thence South 32º32'02" West 127.380 feet to a point; thence South 23º11'58" East 111.520 feet to a point; thence South 52º28'44" East 84.990 feet to a point; thence South 35º34'11" West 69.610 feet; thence to a point in common line of William Ray York (Deed Book 1718, Page 2574); thence along line of William Ray York with the lake North 89º01'13" West 169.720 feet to a point; thence North 15º23'53" West 83.320 feet to a point; thence North 49º17'07" West 144.220 feet to a point; thence South 38º14'02" West 127.840 feet to a point; thence South 60º21'36" West 110.510 feet to a point; thence South 46º59'44" West 151.410 feet to a point; thence South 64º14'22" West 178.960 feet to a point; thence South 34º14'55" West 232.430 feet to a point; thence South 45º17'06" West 201.300 feet to a point; thence South 38º32'56" West 105.370

feet to a point; thence South 06º13'53" East 121.040 feet to a point in common line of Jerry B. Boyd (Deed Book 1161, Page 437); thence along line of Boyd with the lake South 36º41'26" East 122.340 feet to a point; thence South 14º50'27" East 156.180 feet to a point; thence North 60º20'41" West 78.540 feet to a point; thence North 47º31'22" West 131.710 feet to a point; thence North 75º26'24" West 118.410 feet to a point; thence South 39º43'50" West 154.990 feet to a point; thence South 25º51'35" West 168.900 feet to a point in line of Carla T. Brown (Deed Book 1394, Page 1456); thence along line of Brown with the lake South 13º21'14" East 104.130 feet to a point; thence South 36º04'06" West 204.770 feet to a point; thence South 46º16'21" East 146.590 feet to a point; thence South 18º59'44" East 98.550 feet to a point; thence North 81º41'30" East 85.020 feet to a point in common line of Michael T. Richardson (Deed Book 1549, Page 1360); thence along line of Richardson with the lake South 25º23'34" West 98.980 feet to a point; thence North 81º20'03" West 228.820 feet to a point; thence South 32º38'44" West 80.480 feet to a point; thence South 09º00'13" East 167.480 feet to a point; thence South 37º06'56" West 65.670 feet to a point; thence South 68º24'42" West 112.420 feet to a point; thence South 06º47'44" West 71.500 feet to a point in common line of H.B. Allred (Deed Book 952, Page 383); thence along line of Allred with the lake South 06º47'43" West 212.880 feet to a point; thence South 06º51'53" West 91.100 feet to a point in common line of Ramseur Inter-Lock Co. (Deed Book 1005, Page 149); thence along line of Ramseur Inter-Lock with the lake South 06º51'54" West 85.170 feet to a point; thence South 07º44'16" East 308.490 feet to a point; thence South 32º37'10" East 404.220 feet to a point in line of another tract of Ramseur Inter-Lock Co. (Deed Book 953, Page 94); thence South 80º09'02" East 128.780 feet to a point; thence North 45º36'30" East 87.160 feet to a point; thence South 79º48'26" East 214.790 feet to a point; thence South 13º13'59" West 84.440 feet to a point; thence South 38º07'15" East 111.270 feet to a point; thence South 87º02'50" East 126.470 feet to a point; thence North 74º05'23" East 237.140 feet to a point; thence South 35º16'54" West 257.440 feet to a point in a third tract of Ramseur Inter-Lock Co. (Deed Book 953, Page 96); thence along line of Ramseur Inter-Lock with the lake South 47º02'17" East 191.140 feet; thence South 47º02'17" East 137.690 feet to a point in line of M. P. Schumacher (W.B. 94E, Page 306); thence along line of Schumacher South 29º46'29" West 45.220 feet to a point; thence North 50º45'43" West 49.800 feet to a point in common line of Ramseur Inter-Lock Co. (Deed Book 953, Page 96); thence along line of Ramseur Inter-Lock with the lake South 86º06'40" West 44.140 feet to a point; thence South 86º06'40" West 20.750 feet to a point; thence North 68º14'13" West 134.510 feet to a point; thence South 47º18'35" West 190.690 feet to a point; thence South 25º19'54" East 201.640 feet to a point; thence South 04º36'56" East 214.450 feet to a point; thence South 24º31'54" East 31.510 feet to a point in common line of Mae Kirkman (Deed Book 1069, Page 305); thence North 84º04'46" West 300.740 feet along Kirkman's Line in part and John Deaton's line (Deed Book 782, Page 537) in part and Dianne Reeder's line (Deed Book 1596, Page 1396) in part to a point in the northwest corner of Dianne Reeder; thence along Reeder's line South 03º20'28" West 299.160 feet to a point at the Southwest corner of Reeder; thence North 84º03'15" West 25.01 feet along the Northern right-of-way of Ramseur Lake Road; thence South 22º29'25" West 60.00 feet to a point; thence North 67º30'25" West 200.12 feet to a point; thence North 22º26'23" East 62.11 feet to a point; thence North 80º39'19" West 204.91 feet to a point; thence North 80º39'19" West 127.680 feet to a point; thence North 80º39'19" West 97.97 feet to a point; thence North 80º39'19" West 40.92 feet to a point; thence South 58º58'51" West 14.40 feet to a point; thence South 64º42'02" West 100.00 feet to a point; thence North

85º34'18" West 27.41 feet to a point; thence North 85º34'30" West 65.19 feet to a point; thence North 54º10'53" West 51.40 feet to a point; thence North 54º11'32" West 48.78 feet to a point; thence South 10º13'53" West 255.06 feet around the Old Ramseur Water Plant (part of Deed Book 276, Page 471); thence South 10º13'12" West 30.02 feet to a point; thence South 81º56'37" West 285.50 feet to a point; thence North 29º40'40" West 244.46 feet to a point; thence North 01º14'18" West 78.98 feet to a point; thence North 74º50'46" West 54.79 feet to a point; thence North 13º36'51" East 47.64 feet to a point; thence North 13º36'51" East 125.61 feet to a point; thence South 76º23'09" East 111.13 feet to a point; thence North 01º59'48" West 150.48 feet to a point; thence South 78º54'31" East 183.17 feet to a point; thence along a branch North 56º15'59" East 62.23 feet to a point; thence North 43º17'20" East 38.70 feet to a point; thence North 51º30'45" East 35.55 feet to a point; thence North 47º37'01" East 50.09 feet to a point; thence North 54º38'42" East 57.98 feet to a point; thence North 44º51'15" East 50.49 feet to a point; thence North 32º18'39" East 50.16 feet to a point; thence North 17º52'38" East 41.02 feet to a point; thence North 86º08'47" West 196.00 feet to a point at the Southeast corner of the lake access; thence North 86º08'32" West 261.32 feet to a point; thence North 86º07'52" West 203.00 feet to a point; thence North 86º10'03" West 117.81 feet to a point; thence North 86º09'16" West 231.67 feet to a point; thence North 08º55'56" East 14.59 feet to a point; thence North 02º58'59" East 45.47 feet to the point and place of the beginning, in accordance with a composite map of the Kermit G. Pell Water Based Recreation Facility for the Town of Ramseur dated 2005. All information shown was taken from deeds as recorded in Randolph County Register of Deeds.

Tract II:

BEGINNING at a stake on the West bank of Deep River, formerly Colon Welborn's corner; running thence South 40 degrees 52 minutes West 664.71 feet to a stake, Elbert S. Craven's corner; thence South 34 degrees 32 minutes East 210 feet to an iron pipe, Elbert S. Craven's corner; thence South 40 degrees 53 minutes West 450.00 feet to an iron pipe on the Ramseur Road, Elbert Craven's corner; thence South 34 degrees 32 minutes East 34.02 feet to an iron pipe; thence South 17 degrees 32 minutes East 154.32 feet to an iron pipe; thence South 29 degrees 32 minutes East 172.14 feet to an iron pipe: thence South 12 degrees 54 minutes East 165.11 feet to an iron pipe; thence South 40 degrees 0 minutes West 962.06 feet to an iron pipe; thence South 33 degrees 19 minutes East 1513.70 feet to an iron pipe near the West bank of Deep River; thence along the various courses of the bank of Deep River to the point and place of the beginning, containing 87.90 acres, more or less, and the same being that tract of land described in Deed Book 310, Page 159 in the Office of the Register of Deeds for Randolph County, North Carolina. The description herein used is in accordance with a survey and plat of same as prepared by Moore, Gardner and Associates, Inc., Engineers, Asheboro, North Carolina in October 1960, and designated as Job No. 4026, Book 322.

Tract III:

BEGINNING at an iron pipe located South 30 degrees 37 minutes 50 seconds West 105.76 feet from the southwest property corner of Clyde P. Ammons and wife, Nancy H. Ammons (the said Ammons southwest corner being South 22 degrees 00 minutes 31 seconds West 514.51 feet along the common boundary of Gordon L. Brady and wife, Sally Hart Brady and of Clyde P. Ammons and wife, Nancy H. Ammons from the south right-of-way line of N.C. Highway No. 22); thence from the beginning point South 20 degrees 06 minutes 04 seconds West 799.99 feet to an iron pipe; thence North 40 degrees 09 minutes 13 seconds West 806.29 feet to an iron pipe; thence continuing North 40 degrees 09 minutes 13 seconds West 59.86 feet to a point in the approximate

center of Sandy Creek; thence North 16 degrees 17 minutes 46 seconds East 120.58 feet to a point in said creek; thence North 23 degrees 36 minutes 42 seconds East 65.73 feet leaving said creek to a point in the centerline of a raw waterline easement granted by these grantors to the Town of Ramseur by Deed of Easement of even date herewith; thence continuing North 33 degrees 36 minutes 42 seconds East 191.36 feet to an iron pipe; thence South 69 degrees 53 minutes 48 seconds East 398.31 feet to an iron pipe; thence North 22 degrees 00 minutes 31 seconds East 630.26 feet to an iron pipe in the South right-of-way line of N.C. Highway No. 22; thence South 67 degrees 67 minutes 00 seconds East 50 feet to an iron pipe; thence South 22 degree 00 minutes 31 seconds West 638.41 feet to an iron pipe; thence South 69 degrees 53 minutes 48 seconds East 251.63 feet to the Beginning. Containing 10.71 acres.

The deed is recorded in Book 387, Page 350, in the Randolph County Registry.

The property in this section is described according to a survey and plat entitled "Water Treatment Facilities Town of Ramseur, Randolph County, North Carolina", prepared by Minier & Associates, Consulting Engineers, and identified as Job Number 84005.

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

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-111 **Senate Bill 447**

AN ACT TO REPEAL THE PROVISIONS ESTABLISHING THE SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF WHITEVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 308 of the 1971 Session Laws, as rewritten by Chapter 980 of the 1985 Session Laws, and as revised and consolidated by Section 1 of Chapter 1018 of the 1987 Session Laws, is repealed.

SECTION 2. All funds remaining in the Whiteville Firemen's Supplemental Retirement Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the City of Whiteville, to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-112 **Senate Bill 465**

AN ACT TO CONSOLIDATE AND REWRITE THE CARTERET COUNTY OCCUPANCY TAX LAW AND TO AMEND THE DEADLINE FOR THE DEVELOPMENT OF A CONVENTION CENTER PLAN FOR CARTERET COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 through 9 of S.L. 2001-381, as amended by S.L. 2005-120 and S.L. 2005-435, are rewritten and recodified as Sections 2 through 4 of this act. This act does not affect the rights or liabilities of the county, a taxpayer, or

another person arising under the law rewritten and recodified by this act before the effective date of this act; nor does it affect the right to any refund or credit of a tax that accrued under the law rewritten and recodified by this act before the effective date of this act.

SECTION 2. Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground, rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by the following:

(1) Religious organizations.
(2) Educational organizations.
(3) Any business that offers to rent fewer then five units.
(4) Summer camps.
(5) Charitable, benevolent, and other nonprofit organizations.

SECTION 2.(b) Additional Occupancy Tax. – In addition to the room occupancy and tourism development tax authorized by subsection (a) of Section 2 of this act, the Carteret County Board of Commissioners may, no earlier than July 1, 2010, levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of Section 2 of this act only if all of the following conditions have been met:

(1) A development plan for the construction of a convention center has been approved by resolution of the board of county commissioners and the governing board of the municipality where the center is to be located by June 30, 2010.
(2) There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, 2011.
(3) The county is levying the room occupancy and tourism development tax authorized under subsection (a) of Section 2 of this act.

SECTION 2.(c) Repeal of Additional Occupancy Tax. – Carteret County's authority to levy the additional one percent (1%) room occupancy and tourism development tax under subsection (b) of Section 2 of this act is repealed as provided in this section if either of the following events occur:

(1) A cumulative total of ten million dollars ($10,000,000) in proceeds from the additional one percent (1%) room occupancy and tourism development tax is collected, calculated beginning on July 1, 2010. The repeal under this subdivision is effective on the first day of the second month following the date that the cumulative total of ten million dollars ($10,000,000) is collected.
(2) Construction on the convention center has not begun by July 1, 2011. The repeal under this subdivision is effective September 1, 2011. Any funds collected before the repeal date must be redistributed to the Tourism Development Authority and used only to promote travel and tourism.

SECTION 2.(d) Excess Proceeds from Additional Occupancy Tax. – Carteret County must redistribute any excess proceeds from the additional one percent

(1%) room occupancy and tourism development tax authorized under subsection (b) of Section 2 of this act to the Tourism Development Authority to be used only to promote travel and tourism. For purposes of this subsection, "excess proceeds" means:

(1) Any proceeds in excess of ten million dollars ($10,000,000) collected prior to the repeal date of the additional tax.

(2) Any proceeds collected but not spent in excess of the actual cost of the convention center.

SECTION 2.(e) Administration. – A tax levied under this act must be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. The Carteret County Tax Collector must establish procedures to periodically audit the businesses subject to the tax levied under this act in order to ensure compliance with this act.

SECTION 2.(f) Definitions. – The following definitions apply in this act:

(1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:

a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;

b. The nonfederal share of the cost required to construct these projects;

c. The costs associated with providing enhanced public beach access; and

d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

(2) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(3) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(4) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2.(g) Use and Distribution of five percent (5%) Occupancy Tax Revenue. – If Carteret County levies only the room occupancy and tourism

development tax authorized by subsection (a) of Section 2 of this act, the net proceeds of the tax must be distributed as follows:

(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret County Tourism Development Authority. Beginning July 1, 2010, if the conditions in subsection (b) of Section 2 of this act are not met, then Carteret County must, on a quarterly basis, remit sixty percent (60%) to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority must use all of the funds remitted to it under this subdivision to promote travel and tourism in Carteret County. Administrative expenses may not exceed ten percent (10%) of the total budget of the Tourism Development Authority and may not include costs associated with the operation of visitor centers.

(2) Beach nourishment. – Carteret County must retain the remainder to be used only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars ($15,000,000).

SECTION 2.(h) Use and Distribution of six percent (6%) Occupancy Tax Revenue. – If the conditions in subsection (b) of Section 2 of this act are met and Carteret County levies the room occupancy tax at a rate of six percent (6%) as authorized by subsections (a) and (b) of Section 2 of this act, the net proceeds must be distributed as follows:

(1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret Tourism Development Authority to be used to promote travel and tourism.

(2) Beach nourishment. – Carteret County must use thirty-three percent (33%) only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars ($15,000,000).

(3) Convention center financing. – Any remaining proceeds, up to a maximum of ten million dollars ($10,000,000), must be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County.

SECTION 3.(a) Carteret County Tourism Development Authority. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, must adopt a resolution creating the Carteret County Tourism Development Authority for the purpose of managing the promotion and development of tourism in Carteret County.

SECTION 3.(b) The Authority must consist of nine members and must be appointed by the board of county commissioners by the selection of two members from each list of nominees submitted by the following organizations:

(1) Carteret County Chamber of Commerce.

(2) Crystal Coast Hotel/Motel Association, doing business as Crystal Coast Hospitality Association.

(3) Carteret County Board of Realtors.

The nominees submitted by the Chamber of Commerce, the Hotel/Motel Association, and the Board of Realtors must be individuals who collect the occupancy tax levied under this act. However, notwithstanding the foregoing, the board of county commissioners must appoint those persons named to serve by their respective organizations.

Three additional Authority members must be directly appointed by the board of county commissioners. One of these appointments must be a county commissioner, and one must be a mayor of a Carteret County municipality.

SECTION 3.(c) All members of the Authority must serve without compensation. The term for each appointment must be for three years, except that in making the initial appointments, the board of county commissioners must provide for staggered terms.

No member must serve more than two consecutive three-year terms. Members appointed to fill unexpired terms must serve for the remainder of the unexpired terms they are appointed to fill.

SECTION 3.(d) The Authority must select a chair, must meet at the call of the chair, and must adopt bylaws and rules of procedure to govern its meetings.

SECTION 3.(e) The Authority must submit to the board of county commissioners an annual audited financial statement itemizing its receipts and expenditures each year.

SECTION 3.(f) The Authority may contract with any person, firm, or agency to advise, assist, manage, or promote travel and tourism in Carteret County.

SECTION 4.(a) Carteret County Beach Commission. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, must adopt a resolution creating the Carteret County Beach Commission, which must advise the board on strategies for beach nourishment and on the expenditure of room occupancy tax proceeds dedicated to beach nourishment.

SECTION 4.(b) The Beach Commission must consist of 11 members appointed by the board of county commissioners according to the following formula:

(1) Two individuals who reside within the town limits of Atlantic Beach.

(2) Two individuals who reside within the town limits of Pine Knoll Shores.

(3) Two individuals who reside within the town limits of Emerald Isle.

(4) One individual who resides within the town limits of Indian Beach.

(5) One individual who resides on Bogue Banks.

(6) One individual who resides anywhere in Carteret County.

(7) A member of the board of county commissioners.

(8) A member of the Carteret County Tourism Development Authority.

SECTION 4.(c) All members of the Beach Commission must serve without compensation. The term for each appointment must be for three years, except that in making the initial appointments, the board of county commissioners must provide for staggered terms. Members appointed to fill unexpired terms must serve for the remainder of the unexpired term.

SECTION 4.(d) The Beach Commission must select a chair, must meet at the call of the chair, and must adopt bylaws and rules of procedure to govern its meetings.

SECTION 4.(e) The Beach Commission may not contract with any person, firm, or agency. The board of commissioners must be bound by the recommendations of the Beach Commission regarding the expenditure of room occupancy tax proceeds dedicated to beach nourishment. The board of commissioners may in its discretion delegate additional responsibilities to the Beach Commission.

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-113 **Senate Bill 544**

AN ACT TO RESTATE THE CHARTER OF CABARRUS MEMORIAL HOSPITAL, AND TO ESTABLISH AND ASSURE THE CONTINUITY OF ELIGIBILITY OF CABARRUS COLLEGE OF HEALTH SCIENCES TO RECEIVE LEGISLATIVE TUITION GRANTS AND TO RECOGNIZE THE CONTINUED AUTHORITY TO AWARD DEGREES SUBJECT TO MERGER.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Assembly finds that:

(1) Section 11 of Chapter 307 of the Public-Laws of 1935 originally enabled Cabarrus County to establish and maintain a public hospital and maintain a training school for nurses and to award associate degrees; and

(2) Chapter 307 of the Public-Laws of 1935 was amended by Chapter 982 of the 1989 Session Laws, adding a new Section 12.1 to provide that, notwithstanding anything therein or elsewhere in the laws of this State to the contrary, the provisions of the General Statutes relating to public hospitals shall not be applicable to Cabarrus Memorial Hospital, and that Cabarrus Memorial Hospital could operate in the same manner as private nonprofit corporations; and

(3) Session Law 1998-204, (Senate Bill 1424) rewrote Section 11 of Chapter 307 of the Public-Laws of 1935, as previously amended, to provide that, notwithstanding G.S. 116-15, Cabarrus Memorial Hospital could establish as a part of the hospital, educational programs for nursing and allied health sciences and award baccalaureate degrees to graduates of the nursing education or allied health sciences program; and

(4) A participation Agreement between the North Carolina State Education Assistance Authority and the Louise Harkey School of Nursing, now known as Cabarrus College of Health Sciences, was executed June 12, 1996, providing for participation in the North Carolina Legislative Tuition Grant Program; and

(5) Session Law 2004-67 (House Bill 1509) further amended Section 11 of Chapter 307 of the Public-Laws of 1935, again notwithstanding G.S. 116-15, allowing Cabarrus Memorial Hospital to award baccalaureate and advanced degrees to graduates of the nursing education or allied health sciences programs; and

(6) On July 1, 2007, Cabarrus Memorial Hospital, now known as Northeast Medical Center, will merge into a new nonprofit entity to be called CMC-NorthEast, Inc., which will continue to operate Cabarrus College Health Sciences without change other than in its ownership by the new nonprofit entity.

SECTION 1.(b) To provide for the continuity of degree-granting authority and participation with the State Assistance Education Authority:

(1) Notwithstanding G.S. 116-15 and anything else to the contrary, CMC-NorthEast, Inc., or any successor, may continue to operate under this section in the same manner as private nonprofit corporations, and further may maintain in connection and as part of the hospital and education programs for nursing and health sciences, presently known as Cabarrus College of Health Sciences, which may continue to award associate degrees, baccalaureate degrees, and advanced degrees, as appropriate and as obtained by its students.

(2) Notwithstanding G.S. 116-21, 116-21.4, 116-22(1), 116-43.5 and any and all rules promulgated thereunder, and anything else to the contrary, Cabarrus College of Health Sciences shall continue to qualify for participation as an "approved institution" and otherwise remain eligible to receive the North Carolina Legislative Tuition Grants through the North Carolina State Education Assistance Authority.

(3) Notwithstanding G.S. 116-19, 116-20, 116-21, 116-21.1, and 116-22(1), and any and all rules promulgated thereunder, and anything else to the contrary, Cabarrus College of Health Sciences shall continue to qualify for participation as an "approved institution" and otherwise remain eligible to receive the North Carolina State Contractual Scholarship Funds Grants through the North Carolina State Education Assistance Authority.

SECTION 2. Chapter 307, Public-Local Laws of 1935, as amended by Chapter 421, Public-Local Laws of 1935, Chapter 45 of the Session Laws of 1951, Chapter 1154 of the 1977 Session Laws, Chapter 277 of the 1981 Session Laws, Chapter 947 of the Session Laws of 1987, Chapter 602 of the 1989 Session Laws, Chapter 982 of the 1989 Session Laws, S.L. 1998-204, and S.L. 2004-67, reads as rewritten:

"Section 1. That the Board of County Commissioners of Cabarrus County, North Carolina, by a majority vote of said Board, or upon the petition of two hundred voters of said county, shall, after thirty days notice at the courthouse door and publication in one or more newspapers in said county for thirty days, order an election to be held to determine the will of the people of said county whether there shall be issued and sold bonds to an amount not to exceed one hundred thousand dollars ($100,000), to bear interest at not exceeding six per cent per annum, and to be payable, both principal and interest, when and where they may decide, and to levy a tax of not exceeding two cents on the one hundred dollar valuation of property, the proceeds of sale of said bonds to be issued to be used in securing lands and erecting or altering buildings and equipping same to be used as a public hospital for said county, and said tax to be levied to pay the interest on said bonds, and to provide a sinking fund therefor to pay said bonds at maturity. The said Board of County Commissioners shall also levy a tax not to exceed two cents on the one hundred dollar valuation of property for the maintenance and upkeep of said hospital. If the majority of the qualified voters at said election shall vote

in favor of the issuing of said bonds and the levying of said tax, then said bonds, or such part thereof as the said Board of County Commissioners may determine, shall be issued and sold by said Board. Said tax, or such part thereof as shall be required, shall be levied. The hospital so erected from the sale of said bonds in addition to other hospitalization funds from other sources shall be known as the "Cabarrus Memorial Hospital."

"Sec. 2. That at said election, those voters favoring the issuing and sale of bonds and levying of the tax aforesaid shall vote a written or printed ballot, "For Cabarrus Memorial Hospital," and those opposed shall vote a written or printed ballot, "Against Cabarrus Memorial Hospital," and for said election, the County Commissioners shall order a new registration, such registration to be used only for said special election to be governed by the laws of the State, and for said election, the County Commissioners shall appoint registrars and judges of election, and fix a date for making returns of election, at which date, the County Commissioners shall meet and canvass the returns of said election, and declare and record the result of said election. If a majority of the qualified voters shall fail to approve the issuing of said bonds and the levy of said tax at the first election held as above provided, then the County Commissioners may order another election for the same purpose and in the same manner: Provided, said second election shall not be held in the same year as said first election.

"Sec. 3. If a majority of the qualified voters shall vote "For Cabarrus Memorial Hospital," at any election held under this Act, then the County Commissioners shall issue and sell bonds authorized by said election for not less than par, and shall pay over the proceeds arising therefrom to the Treasurer of Cabarrus County, who shall pay out the same under the orders of the executive committee of the hospital hereinafter provided for, said executive committee being authorized to use and expend said fund in the purchase of necessary site, which said site shall be central and convenient, and in the erection and equipment of the necessary building or buildings for said county hospital, and the taxes which may be levied and collected under this Act shall also be paid to the Treasurer of Cabarrus County, and by said Treasurer kept in two separate accounts, one of said accounts being the hospital interest and sinking fund, and the other account the hospital maintenance fund, and from said taxes the said Treasurer shall set apart to the hospital interest and sinking fund such part thereof as shall be required to pay interest on the bonds and to provide the necessary sinking fund for the payment of said bonds, and the said Treasurer is authorized to lend only upon satisfactory security, approved by the Local Government Commission, the accumulations of said sinking fund from time to time for the best interest obtainable, and until said sinking fund is required for the purpose of paying off the said bonds, and said Treasurer, out of said hospital interest and sinking fund, shall pay the interest on said bonds and the bonds at maturity, but the said Treasurer shall not be required to begin with the creation of a sinking fund for the retirement of said bonds before two years from the date of issuing same. The said Treasurer shall pay out the moneys set apart to the hospital maintenance fund upon the order of the executive committee of the hospital, and it shall be the duty of the Board of Commissioners of Cabarrus County to annually levy and collect as other taxes a special tax not exceeding the limit provided by this Act, sufficient to pay the interest on said bonds, and to provide the necessary sinking fund for the payment of same, and also to afford the necessary maintenance fund as herein provided.

"Sec. 4. The bonds issued under the provisions of this Act shall mature in not exceeding thirty years from date, and shall be in such denominations as the County Commissioners shall determine, and shall draw interest at a rate not exceeding six per

cent annually, or semi-annually, and said bonds shall be serial bonds, maturing in such amounts as may be determined by the County Commissioners. The first installment shall fall due not later than five years from date of issue of said bonds, and the last installment falling due not later than thirty years from date of said issue.

"Sec. 5. Should a majority of the qualified voters of Cabarrus County, under any election held under this Act, vote "For Cabarrus Memorial Hospital," then the County Commissioners shall at once appoint a Board of Trustees, one trustee to come from each and every voting precinct in the county. Said Board of Trustees shall be divided into three groups, the members of the first group being appointed for two years, the members of the second group being appointed for three years, the members of the third group being appointed for four years. Upon the first meeting of the Board of Trustees, which shall not be less than ten days from the date of appointment, the said Board shall appoint an executive committee composed of seven members from the trustees, all residents of the county. The Cabarrus County Medical Society and the Medical Staff of the hospital may each nominate for appointment by the Board of Trustees two practicing physicians to serve as honorary and advisory members of said executive committee; such advisory members shall serve without voting power. Said executive committee shall be divided into three groups, the members of the first group being appointed for one year, the members of the second group being appointed for two years, and the members of the third group being appointed for three years. In case of any vacancy for any cause on the executive committee, except for expiration of term of appointment, the executive committee shall of its own motion fill the unexpired term. In case of vacancy on the Board of Trustees for any cause, including the creation of a new voting precinct in the county in which a member does not reside and the expiration of terms of all members, the said Board shall fill the vacancy by electing a new member who resides within the newly created voting precinct or from the same voting precinct as that of the retired member. In the event two or more voting precincts should be consolidated, the appointment of all members residing within the new voting precinct shall thereupon terminate and the Board of Trustees shall appoint a member from the newly created voting precinct. The Board of Trustees shall appoint members of the executive ~~commitee~~ committee upon the expiration of their terms of office.

"Sec. 6. The said executive committee shall within ten days after their appointment or election, qualify by taking the oath of civil officers and organize as an executive committee by the election of one of their number as chairman, one as secretary, and by the election of such other officers as they may deem necessary, but no bond shall be required of them. No member shall receive any compensation for his services performed, but he may receive reimbursement for any cash expenditures actually made for personal expenses incurred as such member, and an itemized statement of such expenses and money paid out shall be made under oath by each of such members and filed with the Secretary and allowed only by the affirmative vote of all the members present at a meeting of the executive committee. The executive committee shall make and adopt such by-laws, rules and regulation for their own guidance and for the government of the hospital as may be deemed ~~expeidient~~ expedient for the economic and equitable conduct thereof, not inconsistent with this Act, and the ordinances of the city or town wherein such public hospital is located. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund, and the purchase of site or sites, the purchase or construction of any hospital building or buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased, or set apart for that purpose: Provided that all moneys

received for the credit of such hospital shall be deposited in a special fund for the hospital and shall be paid out only upon warrants or checks drawn by a proper officer designated by the executive committee upon due authorization of such committee. Said executive committee shall have the power to appoint a chief executive officer and necessary assistants, and to fix their compensation and shall in general carry out the spirit and intent of this act in establishing and maintaining a county general acute care hospital. Such committee shall hold meetings at least once each month, shall keep a complete record of all its proceedings, and four members of such committee shall constitute a quorum for the transaction of business. One of said members shall visit and examine said hospital at least twice each month, and the committee shall during the first week in January of each year file with the Board of Commissioners of said county a report of their proceedings with reference to such hospital, and a statement of all receipts and expenditure during the year, and shall at such time certify to the Board of County Commissioners the amount necessary to maintain and improve such hospital for the ensuing year. No member shall have a personal pecuniary interest, either directly or indirectly, and the purchase of any supplies for said hospital, unless the same are purchased by competitive bidding. Provided, that such hospital may render care and services to members of the Board of Trustees and to companies in which such members may have an interest on those terms and conditions as such care and services are otherwise made available.

"Sec. 7. The hospital established under this Act shall be for the benefit of the inhabitants of Cabarrus County, and of any person falling sick or being injured or maimed within its limits; but every inhabitant or person who is not a pauper shall pay to such executive committee or such officers as it shall designate for such county public hospital a reasonable compensation for occupancy, nursing, care, medicine, and/or attendance, according to the rules and regulations prescribed by said executive committee, such hospital always being subject to such reasonable rules and regulations as said committee may adopt in order to render the use of said hospital of the greatest benefit to the greatest number; and said executive committee may exclude from the use of such hospital any and all inhabitants and persons who shall willfully violate such rules and regulations; and said committee may extend the privileges and use of such hospital to persons residing outside of Cabarrus County upon such terms and conditions as said executive committee may from time to time by its rules and regulations prescribe.

"Sec. 8. When such hospital is established, the physicians, nurses, attendants, the person sick therein, and all persons approaching or coming within the limits of same, and all furniture and other articles used or brought there, shall be subject to such rules and regulations as said executive committee may prescribe.

"Sec. 9. That "Cabarrus Memorial Hospital" is hereby declared to be a body corporate, with power to receive and hold gifts, grants, and devices of real and personal property, to sue and be sued, and to do any and all lawful acts necessary to carry out the objects of its creation, and shall possess all other rights and powers usually incident to corporations. Such rights and powers shall include, without limitation, the authority to sell real and personal property; to establish additional locations to render medical services; to establish trusts or foundations to administer hospital funds; to retain securities donated to such hospital notwithstanding the provisions of Chapter 159 of the General Statutes relating to permissible investments; and to enter into private long term leases or subleases of hospital owned or leased real property for periods not exceeding 10 years without notice or other compliance with Chapter 160A of the General Statutes.

~~Cabarrus Memorial Hospital may use a single prime contractor contract, a construction management contract, or a design-build contract for the erection, construction, alteration, or repair of any building at any of its facilities. The previous sentence shall apply only to contracts entered into on or before July 1, 1992.~~

"Sec. 10. The executive committee of such hospital shall determine the conditions under which the privileges of practice may be available and shall promulgate rules and regulations governing the conduct of such practice at said hospital.

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

"Sec. 12. The executive committee shall have the power to determine rates to be charged for hospital services, to evaluate and approve or reject claims for charity services and to generally establish collection policies and practices for the hospital.

"Sec. 12.1. (a) Notwithstanding anything herein or elsewhere in the laws of this State to the contrary, so long as (i) there are no county bonds issued for the benefit of Cabarrus Memorial Hospital outstanding; (ii) there is no county tax levy for the direct benefit of the hospital; and (iii) the Executive Committee of the hospital operates Cabarrus Memorial Hospital as an acute care general hospital open to the general public free of discrimination based upon race, creed, color, sex or national origin and on a nonprofit basis, the provisions of Chapter 159 of the General Statutes of North Carolina relating to public hospitals, and any other provisions of the General Statutes relating to public hospitals, shall not be applicable to Cabarrus Memorial Hospital and its Executive Committee.

(b) As long as the conditions of subsection (a) of this section continue to be satisfied, the Executive Committee of Cabarrus Memorial Hospital may operate Cabarrus Memorial Hospital in the same manner as private nonprofit corporations operate acute care hospitals in this State without the limitations and restrictions applicable to public hospitals under the laws of this State; and that the Executive Committee may provide for the governance of the hospital in such manner as it deems in the best interest of the hospital."

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-114 **Senate Bill 862**

AN ACT TO ALLOW REGULATION OF SMOKING ON THE CAMPUSES OF THE UNC HEALTH CARE SYSTEM, THE FACILITIES OF THE EAST CAROLINA SCHOOL OF MEDICINE AND PHYSICIANS PRACTICE PLAN, AND THE BUILDINGS AND GROUNDS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-596 reads as rewritten:

"§ **143-596. Definitions.**

As used in this Article, unless the context clearly provides otherwise:

(1) Constituent institution. – As defined in G.S. 116-2(4) and G.S. 116-4.

(1a) Grounds. – The area located and controlled by State government that is within 100 linear feet of any of the following:

a. A State-owned building allocated to and occupied by State government.

b. A State-owned building leased to a third party.

c. A building owned by a third party and leased to State government.

~~(1)~~(1b) ~~"Local government" means any~~Local government. – The local political subdivision of the State or any authority or body created by any ordinance or rules of any such entity.

(1c) Medical Faculty Practice Plan. – As defined in G.S. 116-40.6.

(2) ~~"Nonsmoking area" means any~~Nonsmoking area. – Any designated area where smoking is not permitted.

(3) ~~"Public meeting" means any~~ Public meeting. – Any assemblage authorized by State or local government or any subdivision of State or local government.

(4) ~~"Restaurant" means any~~ Restaurant. – Any building, structure, or area having a seating capacity of 50 or more patrons where food is available for eating on the premises in consideration of payment. The following are not included in determining seating capacity:

a. Seats in any bar or lounge area of a restaurant.

b. Seats in any separate room or section of a restaurant which is used exclusively for private functions.

c. Seats in any open outside area.

(5) ~~"Smoke" or "smokes" or "smoking" means the~~ Smoke, smokes, or smoking. – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

(6) ~~"State government" means the~~ State government. – The political unit for the State of North Carolina; including all agencies of the executive, judicial, and legislative branches of government.

(7) The University of North Carolina. – As defined in Chapter 116 of the General Statutes.

(8) The University of North Carolina Health Care System. – As defined in G.S. 116-37."

SECTION 2. G.S. 143-597 reads as rewritten:

"§ **143-597. Nonsmoking areas in State-controlled buildings.**

(a) All of the following areas may be designated as nonsmoking in buildings owned, leased, or occupied by State government:

(1) Any library open to the public.

(2) Any museum open to the public.

(3) Any area established as a nonsmoking area, so long as at least twenty percent (20%) of the interior space of equal quality to that of the nonsmoking area shall be designated as a smoking area, unless physically impracticable. If physically impracticable, the person in charge of the facility shall provide an adequate smoking area within the facility as near as feasible to twenty percent (20%) of the interior space.

(4) Any indoor space in a State-controlled building such as an auditorium, arena, or coliseum, or an appurtenant building thereof; except that a designated area for smoking shall be established in lobby areas.

(5) Any educational buildings primarily involved in health care ~~instruction.~~instruction and the grounds of those buildings.

(6) Except as provided in G.S. 143-599(11), any facilities of The University of North Carolina ~~health services facilities, wellness centers, enclosed physical education facilities, enclosed student recreational centers, laboratories, or residence halls, provided that each~~ and the grounds of those facilities. Each constituent ~~institution~~ institution, except for the North Carolina School of Science and Mathematics, shall make a reasonable effort to provide residential smoking rooms in residence halls in proportion to student demand for those rooms. For purposes of this subdivision, the term "facilities" includes all of the following:

a. State-owned buildings allocated to and occupied by The University of North Carolina.

b. State-owned buildings allocated to The University of North Carolina and leased to a third party.

c. The area of any building owned by a third party and occupied by The University of North Carolina as lessee.

~~(7) The North Carolina School of Science and Mathematics.~~

(a1) All areas of any building occupied by the General Assembly shall be designated as nonsmoking areas.

(b) Any area designated as nonsmoking or smoking shall be established by the appropriate department, institution, agency, or person in charge of the State-controlled building or area, except as specified in subsection (a1). The person in charge of the building shall conspicuously post or cause to be posted, in any area designated as a smoking or nonsmoking area, one or more signs stating that smoking is or is not permitted in the area.

(c) Where a nonsmoking area is designated, existing physical barriers and ventilation systems shall be used where appropriate to minimize smoke from adjacent areas. This subsection shall not be construed to require fixed structural or other physical modification in providing these areas or to require installation or operation of any heating, ventilating, or air-conditioning system in any manner which adds expense."

SECTION 3. G.S. 143-599 reads as rewritten:

"§ **143-599. Exemptions.**

All of the following facilities shall be exempt from the provisions of this Article:

(1) Any primary or secondary school or child care center, except for a teacher's lounge.

(2) An enclosed elevator.

(3) Public school bus.

(4) Hospital, nursing home, rest home, and State facility operated under the authority of G.S. 122C-181.

(5) Local health department and local department of social services and the building and grounds where the local health department or local department of social services, as applicable, is located. For the purposes of this subdivision, "grounds" means the area located within

50 linear feet of a local health department or a local department of social services.

(6) Any nonprofit organization or corporation whose primary purpose is to discourage the use of tobacco products by the general public.

(7) Tobacco manufacturing, processing, and administrative facilities.

(8) Indoor arenas with a seating capacity greater than 23,000.

(9) State correctional facilities operated by the Department of Correction.

(10) Community colleges.

(11) The buildings, grounds, and walkways of the University of North Carolina Health Care System and of the East Carolina University School of Medicine, Health Sciences Complex, and Medical Faculty Practice Plan."

SECTION 4. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 20th day of June, 2007.

Became law upon approval of the Governor at 4:44 p.m. on the 27th day of June, 2007.

Session Law 2007-115 **House Bill 353**

AN ACT TO PROVIDE ACCESS TO INFORMATION FOR PUBLIC HEALTH PURPOSES IN A MANNER THAT IS CONSISTENT WITH THE HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) MEDICAL PRIVACY RULE AND TO CLARIFY THAT OTHER DISCLOSURES ARE GOVERNED BY HIPAA.

The General Assembly of North Carolina enacts:

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

"**§ 130A-15. Access to information.**

(a) Health care providers and persons in charge of health care facilities or laboratories shall, upon request and proper identification, permit the State Health Director to examine, review, and obtain a copy of records containing privileged medical information or information protected under the Health Information Portability and Accountability Act (HIPAA) medical privacy rule, 45 C.F.R. Parts 160 and 164, that the State Health Director deems are necessary to prevent, control, or investigate a disease or health hazard that may present a clear danger to the public health.

(b) Privileged medical information or protected health information received by the State Health Director pursuant to this section shall be confidential and is not a public record under G.S. 132-1. The information shall not be released, except when the release is made pursuant to any other provision of law, to another federal, state, or local public health agency for the purpose of preventing or controlling a disease or public health hazard or to a court or law enforcement official or law enforcement officer for the purpose of enforcing the provisions of this Chapter or for the purpose of investigating a disease or public health hazard.

(c) A person who permits examination, review, or copying of records or who provides copies of the records pursuant to subsection (a) of this section is immune from any civil or criminal liability that might otherwise be incurred or imposed."

SECTION 2. G.S. 130A-5(2) reads as rewritten:

"(2) To investigate the causes of epidemics and of infectious, communicable and other diseases affecting the public health in order to control and prevent these diseases; to provide, under the rules of the Commission, for the prevention, detection, reporting and control of communicable, infectious or any other diseases or health hazards considered harmful to the public health; ~~to obtain, notwithstanding the provisions of G.S. 8-53, a copy or a summary of pertinent portions of privileged patient medical records deemed necessary for investigating a disease or health hazard that may present a clear danger to the public health. Records shall be identified as necessary by joint agreement of a Department physician and the patient's attending physician. However, if the Department is unable to contact the attending physician after reasonable attempts to do so, or if the Department determines that contacting all attending physicians of patients involved in an investigation would be impractical or would unreasonably delay the inquiry and thereby endanger the public health, the records shall be identified as necessary by joint agreement of a Department physician and the health care facility's chief of staff. For a facility with no chief of staff, the facility's chief administrator may consent to the Department's review of the records. Any person, authorized to have or handle such records, providing copies or summaries of privileged patient medical records pursuant to this subdivision shall be immune from civil or criminal liability that might otherwise be incurred or imposed based upon invasion of privacy or breach of physician-patient confidentiality arising out of the furnishing of or agreement to furnish such records;~~".

SECTION 3. G.S. 90-21.20B reads as rewritten:

"§ **90-21.20B. Access to and disclosure of medical information for ~~law enforcement~~ certain purposes.**

(a) Notwithstanding G.S. 8-53 or any other provision of law, a health care provider may disclose to a law enforcement officer protected health information only to the extent that the information may be disclosed under the federal Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. § 164.512(f) and is not specifically prohibited from disclosure by other state or federal law.

(a1) Notwithstanding any other provision of law, if a person is involved in a vehicle crash:

(1) Any health care provider who is providing medical treatment to the person shall, upon request, disclose to any law enforcement officer investigating the crash the following information about the person: name, current location, and whether the person appears to be impaired by alcohol, drugs, or another substance.

(2) Law enforcement officers shall be provided access to visit and interview the person upon request, except when the health care provider requests temporary privacy for medical reasons.

(3) A health care provider shall disclose a certified copy of all identifiable health information related to that person as specified in a search warrant or an order issued by a judicial official.

(b) A prosecutor or law enforcement officer receiving identifiable health information under this section shall not disclose this information to others except as necessary to the investigation or otherwise allowed by law.

(c) A certified copy of identifiable health information, if relevant, shall be admissible in any hearing or trial without further authentication.

(d) As used in this section, "health care provider" has the same meaning as in G.S. 90-21.11.

(e) Notwithstanding G.S. 8-53 or any other provision of law, a health care provider may disclose protected health information for purposes of treatment, payment, or health care operations to the extent that disclosure is permitted under 45 C.F.R. § 164.506 and is not specifically prohibited by other state or federal law. As used in this subsection, "treatment, payment, or health care operations" are as defined in the Standards for Privacy of Individually Identifiable Health Information."

SECTION 4. G.S. 8-53.1 reads as rewritten:

"§ **8-53.1. Physician-patient and nurse ~~privilege waived in child abuse; disclosure of information in impaired driving accident cases.~~privilege; limitations.**

(a) Notwithstanding the provisions of G.S. 8-53 and G.S. 8-53.13, the physician-patient or nurse privilege shall not be a ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the North Carolina Juvenile Code, Chapter 7B of the General Statutes of North Carolina.

(b) Nothing in this Article shall preclude a health care provider, as defined in G.S. 90-21.11, from disclosing information ~~to a law enforcement agency investigating a vehicle crash under the provisions of~~ pursuant to G.S. 90-21.20B."

SECTION 5. G.S. 20-139.1(c) reads as rewritten:

"(c) Blood and Urine for Chemical Analysis. – Notwithstanding any other provision of law, when a blood or urine test is specified as the type of chemical analysis by a law enforcement officer, a physician, registered nurse, emergency medical technician, or other qualified person shall withdraw the blood sample and obtain the urine sample, and no further authorization or approval is required. If the person withdrawing the blood or collecting the urine requests written confirmation of the law enforcement officer's request for the withdrawal of blood or collecting the urine, the officer shall furnish it before blood is withdrawn or urine collected. When blood is withdrawn or urine collected pursuant to a law enforcement officer's request, neither the person withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or corporation employing that person, or contracting for the service of withdrawing ~~blood,~~ blood or collecting urine, may be held criminally or civilly liable by reason of withdrawing ~~that blood,~~ the blood or collecting the urine, except that there is no immunity from liability for negligent acts or omissions. A person requested to withdraw blood or collect urine pursuant to this subsection may refuse to do so only if it reasonably appears that the procedure cannot be performed without endangering the safety of the person collecting the sample or the safety of the person from whom the sample is being collected. If the officer requesting the blood or urine requests a written justification for the refusal, the medical provider who determined the sample could not be collected safely shall provide written justification at the time of the refusal."

SECTION 6. G.S. 20-139.1(d2) reads as rewritten:

"(d2) Notwithstanding any other provision of law, when a blood or urine sample is requested under subsection (d1) of this section by a law enforcement officer, a

physician, registered nurse, emergency medical technician, or other qualified person shall withdraw the blood and obtain the urine sample, and no further authorization or approval is required. If the person withdrawing the blood or collecting the urine requests written confirmation of the charging officer's request for the withdrawal of blood or obtaining urine, the officer shall furnish it before blood is withdrawn or urine obtained. A person requested to withdraw blood or collect urine pursuant to this subsection may refuse to do so only if it reasonably appears that the procedure cannot be performed without endangering the safety of the person collecting the sample or the safety of the person from whom the sample is being collected. If the officer requesting the blood or urine requests a written justification for the refusal, the medical provider who determined the sample could not be collected safely shall provide written justification at the time of the refusal."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 5:11 p.m. on the 27th day of June, 2007.

Session Law 2007-116 **Senate Bill 30**

AN ACT TO AMEND LAWS TO PROVIDE GREATER PROTECTION FOR DOMESTIC VIOLENCE VICTIMS AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 101-2 reads as rewritten:

"§ **101-2. Procedure for changing name; petition; notice.**

(a) A person who wishes, for good cause shown, to change his or her name must file an application before the clerk of the superior court of the county in which the person lives, after giving 10 days' notice of the application by publication at the courthouse door.

(b) The publication in subsection (a) of this section is not required if the applicant:

(1) Is a participant in the address confidentiality program under Chapter 15C of the General Statutes; or

(2) Provides evidence that the applicant is a victim of domestic violence, sexual offense, or stalking. This evidence may include any of the following:

a. Law enforcement, court, or other federal or state agency records or files.

b. Documentation from a program receiving funds from the Domestic Violence Center Fund, if the applicant is alleged to be a victim of domestic violence.

(c) The application and the court's entire record of the proceedings relating to the applicant's name change is not a matter of public record where the applicant has complied with subsection (b)(1) or (b)(2) of this section. Records qualifying under this subsection shall be maintained separately from other records, shall be withheld from public inspection, and may be examined only by order of the court or with the written consent of the applicant.

(d) An application to change the name of a minor child may be filed by the child's parent or parents, guardian, or guardian ad litem, and this application may be joined in the application for a change of name filed by the parent or parents. Nothing in this section shall be construed to permit one parent to make an application on behalf of a minor child without the consent of the other parent if both parents are living; except that a minor who has reached the age of 16 years, upon proper application to the clerk, may change his or her name with the consent of the parent who has custody of the minor and has supported the minor, without the necessity of obtaining the consent of the other parent, when the clerk of court is satisfied that the other parent has abandoned the minor. A change of parentage or the addition of information relating to parentage on the birth certificate of any person is governed by G.S. 130A-118.

The consent of a parent who has abandoned a minor child is not required if a copy of an order of a court of competent jurisdiction adjudicating that parent's abandonment of the minor if filed with the clerk. If a court of competent jurisdiction has not declared the minor to be an abandoned child, the clerk, on 10 days' written notice by registered or certified mail, directed to the last known address of the parent alleged to have abandoned the child, may determine whether the parent has abandoned the child. If the parent denies that the parent abandoned the child, this issue of fact shall be transferred and determined as provided in G.S. 1-301.2. If abandonment is determined, the consent of the parent is not required. Upon final determination of this issue of fact the proceeding shall be transferred back to the special proceedings docket for further action by the clerk."

SECTION 2. G.S. 15A-830(a)(7) reads as rewritten:

"(7) Victim. – A person against whom there is probable cause to believe one of the following crimes was committed:

a. A Class A, B1, B2, C, D, or E felony.

b. A Class F felony if it is a violation of one of the following: G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3); 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.6; 14-43.3; 14-190.17; 14-190.19; 14-202.1; 14-277.3; 14-288.9; or 20-138.5.

c. A Class G felony if it is a violation of one of the following: G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.

d. A Class H felony if it is a violation of one of the following: G.S. 14-32.3(a); 14-32.3(c); 14-33.2, or 14-277.3.

e. A Class I felony if it is a violation of one of the following: G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.

f. An attempt of any of the felonies listed in this subdivision if the attempted felony is punishable as a felony.

g. Any of the following misdemeanor offenses when the offense is committed between persons who have a personal relationship as defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2); 14-33(a); 14-34; 14-134.3; or 14-277.3.

h. Any violation of a valid protective order under G.S. 50B-4.1."

SECTION 3. G.S. 50B-3(c1) reads as rewritten:

"(c1) When a protective order issued under this Chapter is filed with the Clerk of Superior Court, the clerk shall provide to the applicant an informational sheet developed by the Administrative Office of the Courts that includes:

(1) Domestic violence agencies and services.

(2) Sexual assault agencies and services.
(3) Victims' compensation services.
(4) Legal aid services.
(5) Address confidentiality services.
(6) ~~explains~~ An explanation of the plaintiff's right to apply for a permit under G.S. 14-415.15."

SECTION 4. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Became law upon approval of the Governor at 5:14 p.m. on the 27th day of June, 2007.

Session Law 2007-117 **Senate Bill 1119**

AN ACT TO MAKE TECHNICAL CORRECTIONS IN THE STATE BUDGET ACT, TO MAKE TECHNICAL CORRECTIONS IN CERTAIN OTHER STATUTES THAT WERE AMENDED BECAUSE CONFORMING CHANGES WERE REQUIRED BY THE ENACTMENT OF THE STATE BUDGET ACT, TO TRANSFER THE PROVISIONS CURRENTLY IN THE EXECUTIVE BUDGET ACT REGARDING FLEXIBLE COMPENSATION TO CHAPTER 126 OF THE GENERAL STATUTES AND CLARIFY THAT THOSE PROVISIONS CONTINUE TO APPLY TO THE SAME STATE EMPLOYEES, AND TO CLARIFY THAT THE PROVISIONS REGARDING DISCONTINUED SERVICE RETIREMENT ALLOWANCE AND SEVERANCE WAGES FOR CERTAIN STATE EMPLOYEES THAT CURRENTLY APPEAR IN THE EXECUTIVE BUDGET ACT BUT THAT ARE TRANSFERRED TO CHAPTER 126 OF THE GENERAL STATUTES EFFECTIVE JULY 1, 2007, SHALL CONTINUE TO COVER THE SAME STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-14(b1) reads as rewritten:

"(b1) **(Effective July 1, 2007)** The President shall receive General Fund appropriations made by the General Assembly for continuing operations of The University of North Carolina that are administered by the President and the President's staff complement established pursuant to G.S. 116-14(b) in the form of a single sum to ~~Budget Code 16011~~ Budget Code 16010 of The University of North Carolina in the manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to the foregoing appropriations, shall have the same duties and responsibilities that are prescribed by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The President may establish procedures for transferring funds from ~~Budget Code 16011~~ Budget Code 16010 to the constituent institutions for nonrecurring expenditures. The President may identify funds for capital improvement projects from ~~Budget Code 16011,~~ Budget Code 16010, and the capital improvement projects may be established following the procedures set out in G.S. 143C-8-8 and G.S. 143C-8-9."

SECTION 2. G.S. 120-76(8) reads as rewritten:

"(8) **(Effective July 1, 2007)** The Joint Legislative Commission on Governmental Operations shall be consulted by the Governor before the Governor does any of the following:

~~a. Makes allocations from the Contingency and Emergency Fund.~~

b. Authorizes expenditures in excess of the total requirements of a purpose or program as enacted by the General Assembly and as provided by G.S. 143C-6-4.

c. Proceeds to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.

d. Takes extraordinary measures under Article III, Section 5(3) of the Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committee fails to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the actions he feels are appropriate and necessary and shall then report those actions at the next meeting of the Commission.

e. Approves a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures."

SECTION 3.(a) Chapter 126 of the General Statutes is amended by adding a new Article to read:

"Article 16.

"Flexible Compensation Plan.

"**§ 126-95. Flexible compensation plan.**

(a) The Director of the Budget may provide eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 a program of dependent care assistance as available under section 129 and related sections of the Internal Revenue Code of 1986, as amended. The Director of the Budget may authorize State departments, institutions, and agencies to enter into annual agreements with employees who elect to participate in the program to provide for a reduction in salary. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a program of dependent care assistance, the Director of the Budget may select a contractor only upon a thorough and completely competitive procurement process.

(b) Notwithstanding any other provisions of law relating to the salaries of officers and employees of departments, institutions, and agencies of State government, the Director of the Budget may provide a plan of flexible compensation to eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for benefits available under section 125 and related sections of the Internal Revenue Code of 1986, as amended. This plan shall not replace,

substitute for, or duplicate any benefits provided to employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3, 4, and 6 of Chapter 135 of the General Statutes. The plan may, however, include offerings for products and benefits that are supplemental or additional to these statutory benefits. In providing a plan of flexible compensation, the Director of the Budget may authorize State departments, institutions, and agencies to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 3.(b) G.S. 126-5 is amended by adding the following new subsections to read:

"(c9) Notwithstanding any other provision of this section, the provisions of Article 16 of this Chapter shall apply to all exempt and nonexempt State employees in the executive, legislative, and judicial branches unless provided otherwise by Article 16 of this Chapter. The provisions of Article 16 of this Chapter shall not apply to employees described in subdivisions (2) and (3) of subsection (a) of this section.

(c10) Notwithstanding any other provision of this section, the provisions of G.S. 126-8.5 shall apply to all exempt and nonexempt State employees in the executive, legislative, and judicial branch unless provided otherwise by G.S. 126-8.5. The provisions of G.S. 126-8.5 shall not apply to employees described in subdivisions (2) and (3) of subsection (a) of this section."

SECTION 3.(c) Article 6 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"**§ 143C-6-10. Flexible compensation plan.**

Notwithstanding any other provision of law, the Director may establish a program of dependent care assistance and a flexible compensation plan for eligible officers and employees of State agencies as provided in G.S. 126-95. With the approval of the Director, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may also be used as provided by G.S. 126-95."

SECTION 4. G.S. 143C-6-4 is amended by adding a new subsection to read:

"(h) Transfers Within the Office of the Governor. – Transfers or changes as between objects or line items in the budget of the Office of the Governor may be made by the Governor."

SECTION 5.(a) G.S. 143C-3-3(c) reads as rewritten:

"(c) Repairs and Renovations Funds Request. – In addition to any other information requested by the Director, any State agency proposing to repair or renovate an existing facility shall accompany that request with all of the following:

(1) A description of current deficiencies and proposed corrections with a review and evaluation of that proposal prepared by the Department of Administration.

(2) An estimate of project costs ~~and cash flow requirements~~ approved by the Department of Administration.

(3) A certification of project feasibility as described in G.S. 143-341.

(4) An explanation of the method by which the repair or renovation is to be financed."

SECTION 5.(b) G.S. 143C-8-6(c) reads as rewritten:

"(c) Repairs and Renovations in the Budget Support Document. – The Budget Support Document shall contain for each repair and renovation project recommended in accordance with 143C-8-6(b): (i) a project description and justification, (ii) a detailed cost estimate, ~~(iii) an estimated schedule of cash flow requirements over the life of the project, (iv)~~ (iii) an estimated schedule for the completion of the project, and ~~(v)~~ (iv) an explanation of the means of financing."

SECTION 6. G.S. 143C-8-10(a) reads as rewritten:

"(a) Project Reserve Account. ~~– The Project Reserve Account is created as a reserve account within the Capital Project Fund.~~ There is established a Project Reserve Account. When a construction contract is entered for a capital improvement project for which the General Assembly has enacted an appropriation, the appropriation is encumbered for the project's costs of real property acquisition, planning, design, site development, construction, contingencies, and other related costs. If the amount appropriated for the project exceeds the amount encumbered, the excess shall be credited to the Project Reserve Account, unless otherwise required by law. The Director may authorize funds in the Account to be used for any of the following:

(1) An emergency repair and renovation project at a State facility.

(2) The award of a project contract when bids for the contract exceed the amount appropriated for it if the project was designed within the scope intended by the appropriation and if the Director finds that all means to award the contract within the appropriation were reasonably attempted.

(3) A reversion to the principal fund from which revenue was appropriated for a project when the amount encumbered for the project is less than the amount appropriated."

SECTION 7. G.S. 143C-9-1 reads as rewritten:

"§ **143C-9-1. (Effective July 1, 2007) Medicaid Special Fund; transfers to Department of Health and Human Services.**

(a) The Medicaid Special Fund is established as a nonreverting special fund in the Department of Health and Human Services. The Medicaid Special Fund shall consist of the federal Medicaid disproportionate share monies remaining after payments are made to hospitals. Annually, the Department shall transfer the disproportionate share gain, after payments are made to hospitals, to the Medicaid Special Fund. Funds deposited to the Medicaid Special Fund shall only be available for expenditure upon an act of appropriation of the General Assembly.

Political subdivisions may appropriate funds directly to the Department of Health and Human Services for Medicaid programs. Other public agencies and private sources may transfer funds to the Department for Medicaid programs. The Department may accept unconditional and unrestricted donations of such funds. Notwithstanding the provisions of this Article which might forbid such transfer or donation, the University of North Carolina Hospitals at Chapel Hill may transfer funds as provided by the previous sentence of this section.

(b) Contributed funds shall be subject to the Department of Health and Human Services administrative control and shall be allocated only as specifically provided in the Current Operations Appropriations Act, except such contributions shall not reduce State general revenue funding. At the end of any fiscal year, the unobligated balance of

any such funds shall not revert to the General Fund, but shall be reappropriated for these purposes in the next fiscal year."

SECTION 8. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Became law upon approval of the Governor at 5:17 p.m. on the 27th day of June, 2007.

Session Law 2007-118 **House Bill 107**

AN ACT TO CLARIFY THE STATUTES RELATING TO ABANDONED AND NEGLECTED CEMETERIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 65 of the General Statutes is amended by adding a new Article to read:

"Article 12.

"Abandoned and Neglected Cemeteries.

"Part 1. General.

"**§ 65-85. Definitions.**

As used in this Article, the following terms mean:

(1) Abandoned. – Ceased from maintenance or use by the person with legal right to the real property with the intent of not again maintaining the real property in the foreseeable future.

(2) Cemetery. – A tract of land used for burial of multiple graves.

(3) Department. – The Department of Cultural Resources.

(4) Grave. – A place of burial for a single decedent.

(5) Neglected. – Left unattended or uncared for through carelessness or intention and lacking a caretaker.

(6) Public cemetery. – A cemetery for which there is no qualification to purchase, own, or come into possession of a grave in that cemetery.

"**§§ 65-86 through 65-90: Reserved for future codification purposes.**

"Part 2. Trust Funds for Care of Cemeteries.

"**§ 65-91. Money deposited with the clerk of superior court.**

For the maintenance and preservation of abandoned or neglected graves or abandoned or neglected cemeteries, any person, firm, or corporation may, by will or otherwise, place in the hands of the clerk of the superior court of any county in the State where such grave or lot is located any sum of money not less than five thousand dollars ($5,000), the income from which is to be used for keeping in good condition the abandoned or neglected grave or the abandoned or neglected cemetery with specific instructions as to the use of the fund.

"**§ 65-92. Separate record of accounts to be kept.**

It shall be the duty of the clerk of the superior court to keep a separate record for keeping account of the money deposited as provided in G.S. 65-91, to keep a perpetual account of the same therein, and to record therein the specific instructions about the use of the income on such money. The clerk shall see that the income is spent according to such specific instructions and shall place a copy of the accounting in the estate file.

"**§ 65-93. Funds to be kept perpetually.**

All money placed in the office of the superior court clerk in accordance with this Part shall be held perpetually, or until such time as the balance of the trust corpus falls below one hundred dollars ($100.00), at which time the trust shall terminate, and the clerk shall disburse the remaining balance as provided in G.S. 36A-147(c). Except as otherwise provided herein, no one shall have authority to withdraw or change the direction of the income on same.

"**§ 65-94. Investment of funds.**

Money placed in the office of the superior court clerk in accordance with this Part shall be invested in the same manner as is provided by law for the investment of other trust funds by the clerk of the superior court.

"**§ 65-95. Clerk's bond; substitution of bank or trust company as trustee.**

The official bond of the clerk of the superior court shall be liable for all such sums as shall be paid over to the clerk in accordance with the provisions of this Part. In lieu of the provisions of this section, the clerk may appoint any bank or trust company authorized to do business in this State as trustee for the funds authorized to be paid into his office by virtue of this Part; provided, that no bank or trust company shall be appointed as such trustee unless such bank or trust company is authorized and licensed to act as fiduciary under the laws of this State.

Before any clerk shall turn over such funds to the trustee so appointed, the clerk shall require that the trustee so named qualify before the clerk as such trustee in the same way and manner and to the same extent as guardians are by law required to so qualify. After such trustee has qualified as herein provided, all such funds coming into the clerk's hands may be invested by the trustee only in the securities set out in G.S. 7A-112 and the income therefrom invested for the purposes and in the manner heretofore set out in this Part. All trustees appointed under the provisions of this Part shall render and file in the office of the clerk of the superior court all reports that are now required by law of guardians.

"**§ 65-96. Funds exempt from taxation.**

All money referred to in the preceding sections of this Part shall be exempt from all State, county, township, town, and city taxes.

"**§§ 65-97 through 65-100: Reserved for future codification purposes.**

"Part 3. Access to and Maintenance of Abandoned or Neglected Cemeteries.

"**§ 65-101. Entering public or private property to maintain or visit with consent.**

Any of the following persons, with the consent of the public or private landowner, may enter the property of another to discover, restore, maintain, or visit a grave or abandoned public cemetery:

(1) A descendant of the person whose remains are reasonably believed to be interred in the grave or abandoned public cemetery.

(2) A descendant's designee.

(3) Any other person who has a special personal interest in the grave or abandoned public cemetery.

"**§ 65-102. Entering public or private property to maintain or visit without consent.**

(a) If the consent of the landowner cannot be obtained, any person listed in G.S. 65-101(1), (2), or (3) may commence a special proceeding by petitioning the clerk of superior court of the county in which the petitioner has reasonable grounds to believe the grave or abandoned public cemetery is located for an order allowing the petitioner to enter the property to discover, restore, maintain, or visit the grave or abandoned public cemetery. The petition shall be verified. The special proceeding shall be in accordance

with the provisions of Articles 27A and 33 of Chapter 1 of the General Statutes. The clerk shall issue an order allowing the petitioner to enter the property if the clerk finds all of the following:

(1) There are reasonable grounds to believe that the grave or abandoned public cemetery is located on the property or it is reasonably necessary to enter or cross the landowner's property to reach the grave or abandoned public cemetery.

(2) The petitioner, or the petitioner's designee, is a descendant of the deceased, or the petitioner has a legitimate historical, genealogical, or governmental interest in the grave or abandoned public cemetery.

(3) The entry on the property would not unreasonably interfere with the enjoyment of the property by the landowner.

(b) The clerk's order may state one or more of the following:

(1) Specify the dates and the daylight hours that the petitioner may enter and remain on the property.

(2) Grant the petitioner the right to enter the landowner's property periodically, as specified in the order, after the time needed for initial restoration of the grave or abandoned public cemetery.

(3) Specify a reasonable route from which the petitioner may not deviate in all entries and exits from the property.

"**§§ 65-103 through 65-105: Reserved for future codification purposes.**

"Part 4. Removal of Graves.

"**§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required.**

(a) The State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any church, electric power or lighting company, or any person, firm, or corporation may effect the disinterment, removal, and reinterment of graves as follows:

(1) By the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, when it shall determine and certify to the board of county commissioners in the county from which the bodies are to be disinterred that such removal is reasonably necessary to perform its governmental functions and the duties delegated to it by law.

(2) By any church authority in order to erect a new church, parish house, parsonage, or any other facility owned and operated exclusively by such church; in order to expand or enlarge an existing church facility; or better to care for and maintain graves not located in a regular cemetery for which such church has assumed responsibility of care and custody.

(3) By an electric power or lighting company when it owns land on which graves are located, and the land is to be used as a reservoir.

(4) By any person, firm, or corporation who owns land on which an abandoned cemetery is located after first securing the consent of the governing body of the municipality or county in which the abandoned cemetery is located.

(b) The party effecting the disinterment, removal, and reinterment of a grave containing a decedent's remains under the provisions of this Part shall, before disinterment, give 30 days' written notice of such intention to the next of kin of the

decedent, if known or subject to being ascertained by reasonable search and inquiry, and shall cause notice of such disinterment, removal, and reinterment to be published at least once per week for four successive weeks in a newspaper of general circulation in the county where such grave is located, and the first publication shall be not less than 30 days before disinterment. Any remains disinterred and removed hereunder shall be reinterred in a suitable cemetery.

(c) The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county in which reinterment is made, a written certificate of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name.

The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration.

(d) All expenses of disinterment, removal, and acquisition of the new burial site and reinterment shall be borne by the party effecting such disinterment, removal, and reinterment, including the actual reasonable expense of one of the next of kin incurred in attending the same, not to exceed the sum of two hundred dollars ($200.00).

(e) The Office of Vital Records of North Carolina shall promulgate regulations affecting the registration and indexing of the written certificate of the removal facts, including the form of that certificate.

(f) The party effecting the disinterment, removal, and reinterment of a decedent's remains under the provisions of this Part shall ensure that the site in which reinterment is accomplished shall be of such suitable dimensions to accommodate the remains of that decedent only and that such site shall be reasonably accessible to all relatives of that decedent, provided that the remains may be reinterred in a common grave where written consent is obtained from the next of kin. If under the authority of this Part, disinterment, removal, and reinterment are effected by the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any electric power or lighting company, then such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed as a "funeral director" or a "funeral service licensee" under the provisions of Article 13A of Chapter 90 of the General Statutes.

(g) All disinterment, removal, and reinterment under the provisions of this Part shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county where the disinterment, removal, and reinterment take place. If reinterment is effected in a county different from the county of disinterment with the consent of the next of kin of the deceased whose remains are disinterred, then the disinterment and removal shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of the disinterment, and the reinterment

shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of reinterment.

Due care shall be taken to do said work in a proper and decent manner, and, if necessary, to furnish suitable coffins or boxes for reinterring such remains. Due care shall also be taken to remove, protect, and replace all tombstones or other markers, so as to leave such tombstones or other markers in as good condition as that prior to disinterment. Provided that in cases where the remains are to be moved to a perpetual care cemetery or other cemetery where upright tombstones are not permitted, a suitable replacement marker shall be provided.

(h) Nothing contained in this Part shall be construed to grant or confer the power or authority of eminent domain, or to impair the right of the next of kin of a decedent to remove or cause the removal, at his or their expense, of the remains or grave of such decedent.

"**§§ 65-107 through 65-110: Reserved for future codification purposes.**

"Part 5. County Care of Rural Cemeteries.

"**§ 65-111. County commissioners to provide list of public and abandoned cemeteries.**

Each board of county commissioners shall have the following duties and responsibilities:

(1) To prepare and keep on record in the office of the register of deeds a list of all public cemeteries in the county outside the limits of incorporated municipalities, and not established and maintained for the use of an incorporated municipality, including the names and addresses of the persons in possession and control of those public cemeteries.

(2) To prepare and keep on record in the office of the register of deeds a list of all abandoned public cemeteries.

(3) To furnish to the Department and the Publications Division in the Department of the Secretary of State copies of the lists of such public and abandoned cemeteries, to the end that it may furnish to the boards of county commissioners, for the use of the persons in control of such cemeteries, suitable literature, suggesting methods of taking care of such places.

"**§ 65-112. Appropriations by county commissioners.**

To encourage the persons in possession and control of the public cemeteries referred to in G.S. 65-111 to take proper care of and to beautify such cemeteries, to mark distinctly their boundary lines with evergreen hedges or rows of suitable trees, and otherwise to lay out the grounds in an orderly manner, the board of county commissioners of any county, upon being notified that two-thirds of the expense necessary for so marking and beautifying any cemetery has been raised by the local governing body of the institution which owns the cemetery, and is actually in hand, is hereby authorized to appropriate from the general fund of the county one-third of the expense necessary to pay for such work, the amount appropriated by the board of commissioners in no case to exceed fifty dollars ($50.00) for each cemetery.

"**§ 65-113. County commissioners to have control of abandoned public cemeteries; trustees.**

The county commissioners of the various counties are authorized to oversee all abandoned public cemeteries in their respective counties, to see that the boundaries and

lines are clearly laid out, defined, and marked, and to take proper steps to preserve them from encroachment, and they are hereby authorized to appropriate from the general fund of the county whatever sums may be necessary from time to time for the above purposes.

The boards of county commissioners of the various counties may appoint a board of trustees not to exceed five in number and to serve at the will of the board, and may impose upon such trustees the duties required of the board of commissioners by this Article; and such trustees may accept gifts and donations for the purpose of upkeep and beautification of such cemeteries.

"**§§ 65-114 through 65-125: Reserved for future codification purposes.**

SECTION 2. Article 1 of Chapter 65 of the General statutes is repealed.

SECTION 3. Article 4 of Chapter 65 of the General statutes is repealed.

SECTION 4. Article 5 of Chapter 65 of the General statutes is repealed.

SECTION 5. Article 8 of Chapter 65 of the General statutes is repealed.

SECTION 6. Article 10 of Chapter 65 of the General statutes is repealed.

SECTION 7. This act becomes effective July 1, 2007, and applies to all trusts created on or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Became law upon approval of the Governor at 5:24 p.m. on the 27th day of June, 2007.

Session Law 2007-119 **Senate Bill 211**

AN ACT TO REVISE THE LAW GOVERNING ELECTRONIC SIGNATURES BY CLARIFYING THAT PUBLIC AGENCIES MAY USE, AS WELL AS ACCEPT, ELECTRONIC SIGNATURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-58.4 reads as rewritten:

"§ **66-58.4. Use of electronic signatures.**

All public agencies may use and accept electronic signatures pursuant to this Article, pursuant to Article 40 of this Chapter (the Uniform Electronic Transactions Act), or pursuant to other law."

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

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 5:33 p.m. on the 27th day of June, 2007.

Session Law 2007-120 **House Bill 700**

AN ACT TO CLARIFY STANDARDS FOR CODE-ENFORCEMENT OFFICIALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-151.13 reads as rewritten:

"§ **143-151.13. Required standards and certificates for Code-enforcement officials.**

(a) No person may engage in Code enforcement pursuant to this Article unless he possesses one of the following types of certificates, currently valid, issued by the Board

attesting to his qualifications to hold such position: (i) a standard certificate; (ii) a limited certificate provided for in subsection (c); or (iii) a probationary certificate provided for in subsection (d). To obtain a standard certificate, a person must pass an examination, as prescribed by the Board, which is based on the North Carolina State Building Code and administrative procedures required to enforce the Code. The Board shall issue a standard certificate of qualification to each person who successfully completes the examination authorizing the person named therein to practice as a qualified Code-enforcement official in North Carolina. The certificate of qualification shall bear the signatures of the chairman and secretary of the Board.

(b) ~~The Board shall establish appropriate performance levels, including designation of territory and type and size of buildings and structures, and classes of qualified Code-enforcement officials and may develop examinations and prescribe course of instruction for the various levels and classes. The certificate of qualification shall set forth the performance level for which the Code-enforcement official is qualified. The Board may limit the jurisdiction of Code-enforcement officials based on the performance level for which they have qualified; provided, a person who receives a certificate of qualification at the highest performance level established by the Board shall be entitled to serve anywhere in North Carolina.~~ The Board shall issue one or more standard certificates to each Code-enforcement official demonstrating the qualifications set forth in subsection (b1) of this section. Standard certificates are available for each of the following types of qualified Code-enforcement officials:

(1) Building inspector.
(2) Electrical inspector.
(3) Mechanical inspector.
(4) Plumbing inspector.
(5) Fire inspector.

(b1) The holder of a standard certificate may practice Code enforcement only within the inspection area and level described upon the certificate issued by the Board. A Code-enforcement official may qualify and hold one or more certificates. These certificates may be for different levels in different types of positions as defined in this section and in rules adopted by the Board.

(b2) A Code-enforcement official holding a certificate indicating a specified level of proficiency in a particular type of position may hold a position calling for that type of qualification anywhere in the State. With respect to all types of Code-enforcement officials, those with Level I, Level II, or Level III certificates shall be qualified to inspect and approve only those types and sizes of buildings as specified in rules adopted by the Board.

(c) A Code-enforcement official holding office as of the date specified in this subsection for the county or municipality by which he is employed, shall not be required to possess a standard certificate as a condition of tenure or continued employment but shall be required to complete such in-service training as may be prescribed by the Board. At the earliest practicable date, such official shall receive from the Board a limited certificate qualifying him to engage in Code enforcement at the ~~performance level~~ level, in the particular type of position, and within the governmental jurisdiction in which he is employed. The limited certificate shall be valid only as an authorization for the official to continue in the position he held on the applicable date and shall become invalid if he does not complete in-service training within two years following the applicable date in the schedule below, according to the governmental jurisdiction's population as published in the 1970 U.S. Census:

Counties and Municipalities over 75,000 population – July 1, 1979
Counties and Municipalities between 50,001 and 75,000 – July 1, 1981
Counties and Municipalities between 25,001 and 50,000 – July 1, 1983
Counties and Municipalities 25,000 and under – July 1, 1985
All fire prevention inspectors holding office – July 1, 1989. Fire prevention inspectors have until July 1, 1993, to complete in-service training.

An official holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

(d) The Board may provide for the issuance of probationary or temporary certificates valid for such period (not less than one year nor more than three years) as specified by the Board's rules, or until June 30, 1983, whichever is later, to any Code-enforcement official newly employed or newly promoted who lacks the qualifications prescribed by the Board as prerequisite to applying for a standard certificate under subsection (a). No official may have ~~his~~ a probationary or temporary certificate extended beyond the specified period by renewal or otherwise. The Board may provide for appropriate levels of probationary or temporary certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the Board may deem necessary to protect the public safety and health.

(e) The Board shall, without requiring an examination, issue a standard certificate to any person who is currently certified as a county electrical inspector pursuant to G.S. 153A-351. The certificate issued by the Board shall authorize the person to serve at the electrical inspector level approved by the Commissioner of Insurance in G.S. 153A-351.

(f) The Board shall issue a standard certificate to any person who is currently licensed to practice as a(n):

(1) Architect, registered pursuant to Chapter 83A;
(2) General contractor, licensed pursuant to Article 1 of Chapter 87;
(3) Plumbing or heating contractor, licensed pursuant to Article 2 of Chapter 87;
(4) Electrical contractor, licensed pursuant to Article 4 of Chapter 87; or,
(5) Professional engineer, registered pursuant to Chapter 89C;

provided the person successfully completes a short course, as prescribed by the Board, relating to the State Building Code regulations and Code-enforcement administration. The standard certificate shall authorize the person to practice as a qualified Code-enforcement official in a particular type of position at the ~~performance~~ level determined by the Board, based on the type of license or registration held in any profession specified above."

SECTION 2. G.S. 143-151.14 reads as rewritten:

"§ **143-151.14. Comity.**

The Board may, without requiring an examination, grant a standard certificate as a qualified Code-enforcement official for a particular type of position and level to any person who, at the time of application, is certified as a qualified Code-enforcement official by a similar board of another state, district or territory where standards are acceptable to the Board and not lower than those required by this Article. A fee of not more than twenty dollars ($20.00), as determined by the Board, must be paid by the applicant to the Board for the issuance of a certificate under the provisions of this

section. The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply to every person granted a standard certificate in accordance with this section."

SECTION 3. G.S. 143-151.17 reads as rewritten:

"§ **143-151.17. Grounds for disciplinary actions; investigation; administrative procedures.**

(a) The Board shall have the power to ~~suspend, revoke~~ suspend any or all certificates, revoke any or all certificates, demote any or all certificates to a lower level, or refuse to grant any certificate issued under the provisions of this Article to any person who:

(1) Has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State;
(2) Has obtained certification through fraud, deceit, or perjury;
(3) Has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the State Building Code or any building codes adopted by a federally recognized Indian Tribe under G.S. 153A-350.1;
(4) Has defrauded the public or attempted to do so;
(5) Has affixed his signature to a report of inspection or other instrument of service if no inspection has been made by him or under his immediate and responsible direction; or,
(6) Has been guilty of willful misconduct, gross negligence or gross incompetence.

(b) The Board may investigate the actions of any qualified Code-enforcement official or applicant upon the verified complaint in writing of any person alleging a violation of subsection ~~(a).~~ (a) of this section. The Board may ~~suspend or revoke the certification~~ suspend, revoke, or demote to a lower level any certificate of any qualified Code-enforcement official and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) as grounds for disciplinary action.

(c) A denial, suspension, ~~or revocation~~ revocation, or demotion to a lower level of a certificate issued under this Article shall be made in accordance with Chapter 150B of the General Statutes.

(d) The Board may deny an application for a certificate for any of the grounds that are described in subsection (a) of this section. Within 30 days after receipt of a notification that an application for a certificate has been denied, the applicant may make a written request for a review by a committee designated by the chairman of the Board to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written request for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

(e) The provisions of this section shall apply to Code-enforcement officials and applicants who are employed or seek to be employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1."

SECTION 4. G.S. 143-151.18 reads as rewritten:

"§ **143-151.18. Violations; penalty; injunction.**

On and after July 1, 1979, it shall be unlawful for any person to represent himself as a qualified Code-enforcement official who does not hold a currently valid certificate of qualification issued by the Board. Further, it shall be unlawful for any person to practice Code enforcement except as allowed by any currently valid certificate issued to that person by the Board. Any person violating any of the provisions of this Article shall be guilty of a Class 1 misdemeanor. The Board is authorized to apply to any judge of the superior court for an injunction in order to prevent any violation or threatened violation of the provisions of this Article."

SECTION 5. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 5:36 p.m. on the 27th day of June, 2007.

Session Law 2007-121 **House Bill 695**

AN ACT TO EXPAND AGENCIES COVERED BY THE STATE GOVERNMENT INTERNSHIP PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-417 reads as rewritten:

"Part 18. North Carolina Internship Council.

"§ **143B-417. North Carolina Internship Council – creation; powers and duties.**

There is hereby created the North Carolina Internship Council of the Department of Administration. The North Carolina Internship Council shall have the following functions and duties:

(1) To determine the number of student interns to be allocated to each of the following offices or departments:
   a. Office of the Governor
   b. Department of Administration
   c. Department of Correction
   d. Department of Cultural Resources
   e. Department of Revenue
   f. Department of Transportation
   g. Department of Environment and Natural Resources
   h. Department of Commerce
   i. Department of Crime Control and Public Safety
   j. Department of Health and Human Services
   k. Office of the Lieutenant Governor
   l. Office of the Secretary of State
   m. Office of the State Auditor
   n. Office of the State Treasurer
   o. Department of Public Instruction
   p. Department of Justice
   q. Department of Agriculture and Consumer Services
   r. Department of Labor
   s. Department of Insurance
   t. Office of the Speaker of the House of Representatives

u. Justices of the Supreme Court and Judges of the Court of Appeals
v. Community Colleges System Office
w. Office of State Personnel
x. Office of the Senate President Pro Tempore
y. Department of Juvenile Justice and Delinquency ~~Prevention;~~Prevention
z. Administrative Office of the Courts
aa. State Ethics Commission
bb. Employment Security Commission
cc. State Board of Elections

(2) To screen applications for student internships and select from these applications the recipients of student internships; and
(3) To determine the appropriateness of proposals for projects for student interns submitted by the offices and departments enumerated in subdivision (1) of this section."

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

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 5:38 p.m. on the 27th day of June, 2007.

Session Law 2007-122 **House Bill 105**

AN ACT TO MODIFY THE LAW REGARDING THE DESECRATION OF A GRAVE, AS RECOMMENDED BY THE HOUSE STUDY COMMITTEE ON ABANDONED CEMETERIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-148 reads as rewritten:

"§ **14-148. Defacing or desecrating grave sites.**

(a) It is unlawful to willfully:
(1) Throw, place or put any refuse, garbage or trash in or on any ~~cemetery;~~ cemetery.
(2) Take away, disturb, vandalize, destroy or change the location of any stone, brick, iron or other material or fence enclosing a cemetery without authorization of law or consent of the surviving spouse or next of kin of the ~~deceased thereby causing damage of less than one thousand dollars ($1,000); or~~ deceased.
(3) Take away, disturb, vandalize, destroy, or tamper with ~~or deface~~ any ~~tombstone, headstone, monument, grave marker, grave ornamentation, grave artifacts,~~ shrubbery, flowers, plants or other articles ~~within any cemetery erected~~ planted or placed within any cemetery to designate where ~~a body is~~ human remains are interred or to preserve and perpetuate the memory and name of any person, without authorization of law or the consent of the surviving spouse or next of ~~kin, thereby causing damage of less than one thousand dollars ($1,000).~~ kin.

(b) The provisions of this section shall not apply ~~to a~~ to:

(1) Ordinary maintenance and care of a cemetery by the owner, caretaker, or other person acting to facilitate cemetery operations by keeping the cemetery free from accumulated debris or other signs of neglect.

(2) Conduct that is punishable under G.S. 14-149.

(3) A professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.

(c) Violation of this section is a Class I felony if the damage caused by the violation is one thousand dollars ($1,000) or more. Any other violation of this section is a Class 1 misdemeanor. In passing sentence, the court shall consider the appropriateness of restitution or reparation as a condition of probation under G.S. ~~15A-1343(b)(6)~~ 15A-1343(b)(9) as an alternative to actual imposition of a fine, jail term, or both."

SECTION 2. G.S. 14-149 reads as rewritten:

"§ **14-149. Desecrating, plowing over or covering up ~~graves.~~ graves; desecrating human remains.**

(a) It is a Class I felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully:

(1) Open, disturb, destroy, remove, vandalize or desecrate any ~~casket, human remains or any portion thereof or the~~ casket or other repository of any ~~such~~ human remains, by any means including plowing under, tearing up, covering over or otherwise obliterating or removing any ~~grave;~~ grave or any portion thereof.

(2) ~~Take away, vandalize or destroy any stone, brick, iron or other material or fence enclosing a cemetery, causing damage of more than one thousand dollars ($1,000); or~~ Take away, disturb, vandalize, destroy, tamper with, or deface any tombstone, headstone, monument, grave marker, grave ornamentation, or grave artifacts erected or placed within any cemetery to designate the place where human remains are interred or to preserve and perpetuate the memory and the name of any person. This subdivision shall not apply to the ordinary maintenance and care of a cemetery.

~~(3) Take away, vandalize, destroy or deface any tombstone, headstone, monument, grave marker, grave ornamentation, grave artifacts, shrubbery, flowers, plants or other articles within any cemetery erected or placed to designate the place where any dead body is interred or to preserve and perpetuate the memory and the name of any person, causing damage of more than one thousand dollars ($1,000).~~

(a1) It is a Class H felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully disturb, destroy, remove, vandalize, or desecrate any human remains that have been interred in a cemetery.

(b) The provisions of this section shall not apply to a professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes."

SECTION 3. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Became law upon approval of the Governor at 5:38 p.m. on the 27th day of June, 2007.

Session Law 2007-123 **House Bill 1486**

AN ACT TO AMEND THE DIETETICS/NUTRITION PRACTICE ACT CONCERNING REVIEW OF CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-369 reads as rewritten:

"§ **90-369. Third party reimbursement; limitation on modifications.**

Nothing in this Article shall be construed to require direct third-party reimbursement to persons licensed under this Article. ~~In no event shall there be any substantive change to G.S. 90-352, 90-357, or 90-368 unless the change is reviewed by the Legislative Committee on New Licensing Boards pursuant to Article 18A of Chapter 120 of the General Statutes.~~"

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 5:40 p.m. on the 27th day of June, 2007.

Session Law 2007-124 **Senate Bill 1337**

AN ACT AMENDING THE NORTH CAROLINA DENTAL HYGIENE ACT TO PROVIDE FOR CERTAIN ACTIVITIES TO BE PERFORMED BY LICENSED HYGIENISTS OUTSIDE THE DIRECT SUPERVISION OF A DENTIST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-221 reads as rewritten:

"§ **90-221. Definitions.**

(a) "Dental hygiene" as used in this Article shall mean the performance of the following functions: Complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, preparation of diagnostic aids, and written records of oral conditions for interpretation by the dentist, together with such other and further functions as may be permitted by rules and regulations of the Board not inconsistent herewith.

(b) "Dental hygienist" as used in this Article, shall mean any person who is a graduate of a Board-accredited school of dental hygiene, who has been licensed by the Board, and who practices dental hygiene as prescribed by the Board.

(c) "License" shall mean a certificate issued to any applicant upon completion of requirements for admission to practice dental hygiene.

(d) "Renewal certificate" shall mean the annual certificate of renewal of license to continue practice of dental hygiene in the State of North Carolina.

(e) "Board" shall mean "The North Carolina State Board of Dental Examiners" created by Chapter 139, Public Laws of 1879, and Chapter 178, Public Laws of 1915 as continued in existence by G.S. 90-22.

(f) "Supervision" as used in this Article shall mean that acts are deemed to be under the supervision of a licensed dentist when performed in a locale where a licensed dentist is physically present during the performance of such ~~acts~~acts, except those acts performed under direction and in compliance with G.S. 90-233(a) or G.S. 90-233(a1), and such acts are being performed pursuant to the dentist's order, control and approval."

SECTION 2. G.S. 90-233 reads as rewritten:

"§ **90-233. Practice of dental hygiene.**

(a) A dental hygienist may practice only under the supervision of one or more licensed dentists. This subsection shall be deemed to be complied with in the case of dental hygienists employed by or under contract with a local health department or State government dental public health program and especially trained by the Dental Health Section of the Department of Health and Human Services as public health hygienists, while performing their duties for the persons officially served by the local health department or State government program under the direction of a duly licensed dentist employed by that program or by the Dental Health Section of the Department of Health and Human Services.

(a1) A dental hygienist who has three years of experience in clinical dental hygiene or a minimum of 2,000 hours performing primarily prophylaxis or periodontal debridement under the supervision of a licensed dentist, who completes annual CPR certification, who completes six hours each year of Board-approved continuing education in medical emergencies in addition to the requirements of G.S. 90-225.1, and who is designated by the employing dentist as being capable of performing clinical hygiene procedures without the direct supervision of the dentist, may perform one or more dental hygiene functions as described in G.S. 90-221(a) without a licensed dentist being physically present if all of the following conditions are met:

(1) A licensed dentist directs in writing the hygienist to perform the dental hygiene functions.

(2) The licensed dentist has personally conducted an evaluation of the patient which shall include a complete oral examination of the patient, a thorough analysis of the patient's health history, a diagnosis of the patient's condition, and a specific written plan for treatment.

(3) The dental hygiene functions directed to be performed in accordance with this subsection shall be conducted within 120 days of the dentist's evaluation.

(4) The services are performed in nursing homes; rest homes; long-term care facilities; rural and community clinics operated by Board-approved nonprofits; rural and community clinics operated by federal, State, county, or local governments; and any other facilities identified by the Office of Rural Health and approved by the Board as serving dental access shortage areas.

(a2) A dental hygienist shall not establish or operate a separate care facility that exclusively renders dental hygiene services.

(a3) A dental hygienist who has been disciplined by the Board may not practice outside the direct supervision of a dentist under G.S. 90-233(a1). A dentist who has been disciplined by the Board may not allow a hygienist to work outside of that dentist's direct supervision under G.S. 90-233(a1).

(a4) Each dentist who chooses to order dental hygiene services under G.S. 90-233(a1) shall report annually to the Board the number of patients who were treated outside the direct supervision of the dentist, the location in which the services

were performed by the hygienist, and a description of any adverse circumstances which occurred during or after the treatment, if any. The dentist's report shall not identify hygienists or patients by name or any other identifier.

(a5) Clinical dental hygiene services shall be provided in compliance with both CDC and OSHA standards for infection control and patient treatment.

(b) A dentist in private practice may not employ more than two dental hygienists at one and the same time who are employed in clinical dental hygiene positions.

(c) Dental hygiene may be practiced only by the holder of a license or provisional license currently in effect and duly issued by the Board. The following acts, practices, functions or operations, however, shall not constitute the practice of dental hygiene within the meaning of this Article:

(1) The teaching of dental hygiene in a school or college approved by the Board in a board-approved program by an individual licensed as a dental hygienist in any state in the United States.

(2) Activity which would otherwise be considered the practice of dental hygiene performed by students enrolled in a school or college approved by the Board in a board-approved dental hygiene program under the direct supervision of a dental hygienist or a dentist duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3), acting as an instructor.

(3) Any act or acts performed by an assistant to a dentist licensed to practice in this State when said act or acts are authorized and permitted by and performed in accordance with rules and regulations promulgated by the Board.

(4) Dental assisting and related functions as a part of their instructions by students enrolled in a course in dental assisting conducted in this State and approved by the Board, when such functions are performed under the supervision of a dentist acting as a teacher or instructor who is either duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3)."

SECTION 3. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 20th day of June, 2007.

Became law upon approval of the Governor at 5:44 p.m. on the 27th day of June, 2007.

Session Law 2007-125 **Senate Bill 748**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO EXTEND THE RESTRICTION ON THE ISSUING OF LICENSES FOR HOME CARE AGENCIES BY ONE YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2006-194 reads as rewritten:

"**SECTION 2.** Beginning January 1, 2007, and for a period of ~~one year~~two years thereafter, the Department of Health and Human Services shall not issue any licenses for new home care agencies that intend to offer in-home aide services. This shall not restrict the Department from issuing licenses to certified home health agencies that intend to offer in-home aide services or to agencies that need a new license for an

existing home care agency being acquired. This will allow the Department ~~the time necessary to implement newly adopted home care rules.~~ more time to work with existing home care agencies to assure compliance with the newly adopted home care rules."

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

In the General Assembly read three times and ratified this the 20th day of June, 2007.

Became law upon approval of the Governor at 5:44 p.m. on the 27th day of June, 2007.

Session Law 2007-126 **House Bill 485**

AN ACT TO ENSURE THAT STUDENTS IN GRADES NINE THROUGH TWELVE RECEIVE INFORMATION ANNUALLY ABOUT THE MANNER IN WHICH A PARENT MAY LAWFULLY ABANDON A NEWBORN BABY WITH A RESPONSIBLE PERSON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-47 is amended by adding a new subdivision to read:

"§ **115C-47. Powers and duties generally.**

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

…

(50) To Ensure That Certain Students Receive Information Annually on Lawfully Abandoning a Newborn Baby. – Not later than August 1, 2008, local boards of education shall adopt policies to ensure that students in grades nine through 12 receive information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

SECTION 2. G.S. 115C-238.29F(a), as amended by Section 2 of S.L. 2007-59, reads as rewritten:

"(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five though 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

SECTION 3. G.S. 115C-548, as amended by Section 3 of S.L. 2007-59, reads as rewritten:

"§ **115C-548. Attendance; health and safety regulations.**

Each private church school or school of religious charter shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to these schools so that they can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to these schools so that they can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to these schools so that they can provide information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

SECTION 4. G.S. 115C-556, as amended by Section 4 of S.L. 2007-59, reads as rewritten:

"§ **115C-556. Attendance; health and safety regulations.**

Each qualified nonpublic school shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to each qualified nonpublic school so that the school can

provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations the benefits and possible side effects of vaccination for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to each qualified nonpublic school so that the school can provide information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500."

SECTION 5. G.S. 115C-565, as amended by Section 5 of S.L. 2007-59, reads as rewritten:

"§ **115C-565. Requirements exclusive.**

No school which complies with this Part shall be subject to any other provision of law relating to education except requirements of law respecting immunization. The Division of Nonpublic Education, Department of Administration, shall provide to home schools information about meningococcal meningitis and influenza and their vaccines. This information may be provided electronically or on the Division's Web page. The information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500. This information may be provided electronically or on the Division's Web page."

SECTION 6. This act is effective when it becomes law and applies beginning with the 2008-2009 school year.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Became law upon approval of the Governor at 5:46 p.m. on the 27th day of June, 2007.

Session Law 2007-127 **House Bill 737**

AN ACT TO MAKE CHANGES IN THE LAWS RELATING TO THE MONITORING OF SOLVENCY OF INSURANCE COMPANIES AND OTHER RISK-BEARING ENTITIES REGULATED BY THE COMMISSIONER OF INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-7-15(17) reads as rewritten:

"(17) "Credit insurance," meaning indemnifying merchants or other persons extending credit against loss or damage resulting from the nonpayment of debts owed to them; and including the incidental power to acquire and dispose of debts so insured, and to collect any debts owed to the insurer or to any person so insured by the ~~insurer including without limiting the foregoing, mortgage guaranty insurance that is insurance against financial loss by reason of the nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond, or other evidence of indebtedness secured by a security interest, mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, or on such personal property as the Commissioner may from time to time approve.~~ insurer; and also including insurance where the debt is secured by a junior lien on real estate or where the debt is secured by a first lien on real estate as long as (i) the purpose of the debt being insured is not the purchase of the real estate and the insurance is limited to twenty-five percent (25%) of the insurer's aggregate insured risk outstanding, before reinsurance ceded or assumed or (ii) the insurance is not included within the definition of mortgage guaranty insurance."

SECTION 2. G.S. 58-7-15(22) reads as rewritten:

"(22) "Miscellaneous insurance," meaning insurance against any other casualty authorized by the charter of the company, not included in ~~subdivisions (1) to (21) of~~ this section, which is a proper subject of insurance."

SECTION 3. G.S. 58-7-15 is amended by adding a new subdivision to read:

"(23) "Mortgage guaranty insurance," meaning insurance against financial loss by reason of nonpayment of principal, interest, or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness which constitutes, or is equivalent to, a first lien or charge on the real estate, provided the improvement on the real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families."

SECTION 4. G.S. 58-7-75(4) reads as rewritten:

"(4) Stock Casualty and Fidelity and Surety Companies. – A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in G.S. 58-7-15 (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), ~~(21) and (22)~~ (21), (22), and (23) only when it has a paid-in capital of not less than one million dollars ($1,000,000) and a paid-in initial surplus of not less than one million five hundred

thousand dollars ($1,500,000). Every such company shall at all times thereafter maintain a minimum capital of not less than one million dollars ($1,000,000) and a minimum surplus of at least two hundred fifty thousand dollars ($250,000)."

SECTION 5. G.S. 58-10-125 reads as rewritten:

"§ **58-10-125. ~~Minimum policyholders position.~~ Policyholders position and capital and surplus requirements.**

(a) For the purpose of complying with G.S. 58-7-75, a mortgage guaranty insurer shall maintain at all times a minimum policyholders position ~~in the amount required by this section.~~ of not less than one twenty-fifth of the insurer's aggregate insured risk outstanding. The policyholders position shall be net of reinsurance ceded but shall include reinsurance assumed.

(b) If a mortgage guaranty insurer does not have the minimum amount of policyholders position required by this section it shall cease transacting new business until the time that its policyholders position is in compliance with this section.

(c) A mortgage guaranty insurer shall at all times maintain capital and surplus in the greater of the amount required by G.S. 58-7-75 or this section. ~~If a policy of mortgage guaranty insurance insures individual loans with a percentage claim settlement option on those loans, a mortgage guaranty insurer shall maintain a policyholders position based on each one hundred dollars ($100.00) of the face amount of the mortgage, the percentage coverage, and the loan-to-value category. The minimum amount of policyholders position shall be calculated in the following manner:~~

~~(1) If the loan-to-value is greater than seventy-five percent (75%), the minimum policyholders position per one hundred dollars ($100.00) of the face amount of the mortgage for the specific percent coverage shall be as shown in the schedule below:~~

~~Percent Coverage~~	~~Policyholders Position Per $100 of the Face Amount of the Mortgage~~	~~Percent Coverage~~	~~Policyholders Position Per $100 of the Face Amount of the Mortgage~~
~~5~~	~~$0.20~~	~~55~~	~~$1.50~~
~~10~~	~~0.40~~	~~60~~	~~1.55~~
~~15~~	~~0.60~~	~~65~~	~~1.60~~
~~20~~	~~0.80~~	~~70~~	~~1.65~~
~~25~~	~~1.00~~	~~75~~	~~1.75~~
~~30~~	~~1.10~~	~~80~~	~~1.80~~
~~35~~	~~1.20~~	~~85~~	~~1.85~~
~~40~~	~~1.30~~	~~90~~	~~1.90~~
~~45~~	~~1.35~~	~~95~~	~~1.95~~
~~50~~	~~1.40~~	~~100~~	~~2.00~~

~~(2) If the loan-to-value is at least fifty percent (50%) and not more than seventy-five percent (75%), the minimum amount of the policyholders position shall be fifty percent (50%) of the minimum of the amount calculated under subdivision (c)(1) of this section.~~

~~(3) If the loan-to-value is less than fifty percent (50%), the minimum amount of policyholders position shall be twenty-five percent (25%) of the amount calculated under subdivision (c)(1) of this section.~~

(d) If a policy of mortgage guaranty insurance provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be:

(1) If the equity is not more than fifty percent (50%) and is at least twenty percent (20%), or equity plus prior insurance or a deductible is at least twenty-five percent (25%) and not more than fifty-five percent (55%), the minimum amount of policyholders position shall be calculated as follows:

Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage	Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage
1	$0.30	50	$0.825
5	0.50	60	0.85
10	0.60	70	0.875
15	0.65	75	0.90
20	0.70	80	0.925
25	0.75	90	0.95
30	0.775	100	1.00
40	0.80		

(2) If the equity is less than twenty percent (20%), or the equity plus prior insurance or a deductible is less than twenty-five percent (25%), the minimum amount of policyholders position shall be two hundred percent (200%) of the amount required by subdivision (d)(1) of this section.

(3) If the equity is more than fifty percent (50%) or the equity plus prior insurance or a deductible is more than fifty-five percent (55%), the minimum amount of policyholders position shall be fifty percent (50%) of the amount required by subdivision (d)(1) of this section.

(e) If a policy of mortgage guaranty insurance provides for layers of coverage, deductibles, or excess reinsurance, the minimum amount of policyholders position shall be computed by subtraction of the minimum position for the lower percentage coverage limit from the minimum position for the upper or greater coverage limit.

(f) If a policy of mortgage guaranty insurance provides for coverage on loans secured by junior liens, the policyholders position shall be:

(1) If the policy provides coverage on individual loans, the minimum amount of policyholders position shall be calculated as in subsection (c) of this section as follows:

a. The loan-to-value percent is the entire loan indebtedness on the property divided by the value of the property;

b. The percent coverage is the insured portion of the junior loan divided by the entire loan indebtedness on the collateral property; and

c. The face amount of the insured mortgage is the entire loan indebtedness on the property.

(2) If the policy provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be calculated according to subsection (d) of this section as follows:

~~a. The equity is the complement of the loan-to-value percent calculated as in subdivision (d)(1) of this section;~~

~~b. The percent coverage is calculated as in subdivision (d)(1) of this section; and~~

~~c. The face amount of the insured mortgage is the entire loan indebtedness on the property.~~

~~(g) If a policy of mortgage guaranty insurance provides for coverage on leases, the policyholders position shall be four dollars ($4.00) for each one hundred dollars ($100.00) of the insured amount of the lease.~~

~~(h) If a policy of mortgage guaranty insurance insures loans with a percentage loss settlement option coverage between any of the entries in the schedules in this section, then the factor for policyholders position per one hundred dollars ($100.00) of the face amount of the mortgage shall be prorated between the factors for the nearest percent coverage listed.~~"

SECTION 6. G.S. 58-10-135 reads as rewritten:

"§ **58-10-135. Contingency ~~reserve.~~ reserve for mortgage guaranty insurers.**

(a) Subject to G.S. 58-7-21, a mortgage guaranty insurer shall make an annual contribution to the contingency reserve which in the aggregate shall be ~~the greater of:~~

~~(1)~~ ~~Fifty~~ fifty percent (50%) of the net earned mortgage guaranty premium reported in the annual ~~statement; or~~ statement.

~~(2) The sum of:~~

~~a. The policyholders position established under G.S. 58-10-125 on residential buildings designed for occupancy by not more than four families divided by seven;~~

~~b. The policyholders position established under G.S. 58-10-125 on residential buildings designed for occupancy by five or more families divided by five;~~

~~c. The policyholders position established under G.S. 58-10-125 on buildings occupied for industrial or commercial purposes divided by three; and~~

~~d. The policyholders position established under G.S. 58-10-125 for leases divided by 10.~~

~~(b) If the mortgage guaranty coverage is not expressly provided for in this section, the Commissioner may establish a rate formula factor that will produce a contingency reserve adequate for the risk assumed.~~

(c) The contingency reserve established by this section shall be maintained for 120 months and reported in the financial statements as a liability. That portion of the contingency reserve established and maintained for more than 120 months shall be released and shall no longer constitute part of the contingency reserve.

(d) With the approval of the Commissioner, withdrawals may be made from the contingency reserve when incurred losses and incurred loss expenses exceed ~~the greater of either~~ thirty-five percent (35%) of the net earned ~~premium or seventy percent (70%) of the amount which subsection (a) of this section requires to be contributed to the contingency reserve in such year.~~ premium. On a quarterly basis, provisional withdrawals may be made from the contingency reserve in an amount not to exceed seventy-five percent (75%) of the withdrawal calculated in accordance with this subsection.

(e) With the approval of the Commissioner, a mortgage guaranty insurer may withdraw from the contingency reserve any amounts which are in excess of the

minimum policyholders position as filed with the most recently filed annual statement. In reviewing a request for withdrawal pursuant to this subsection, the Commissioner may consider loss development and trends. If any portion of the contingency reserve for which withdrawal is requested pursuant to this subsection is maintained by a reinsurer, the Commissioner may also consider the financial condition of the reinsurer. If any portion of the contingency reserve for which withdrawal is requested pursuant to this subsection is maintained in a segregated account or segregated trust and such withdrawal would result in funds being removed from the segregated account or segregated trust, the Commissioner may also consider the financial condition of the reinsurer.

(f) Releases and withdrawals from the contingency reserve shall be accounted for on a first-in-first-out basis as prescribed by the Commissioner.

(g) The calculations to develop the contingency reserve shall be made in the following sequence:

(1) The additions required by ~~subsections (a) and (b)~~ subsection (a) of this section;

(2) The releases permitted by subsection (c) of this section;

(3) The withdrawals permitted by subsection (d) of this section; and

(4) The withdrawals permitted by subsection (e) of this section.

(h) Whenever the laws or regulations of another jurisdiction in which a mortgage guaranty insurer, subject to the requirements of this Part is licensed, require a larger unearned premium reserve or a larger contingency reserve in the aggregate than that set forth in this Part, the establishment and maintenance of the larger unearned premium reserve or contingency reserve shall be deemed to be in compliance with this Part."

SECTION 7. Part 5 of Article 10 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-10-145. Mono-line requirement for mortgage guaranty insurers.**

A mortgage guaranty insurance company that transacts any kind of insurance other than mortgage guaranty insurance is not eligible to transact business in this State. Provided, however, that a mortgage guaranty insurance company may, until December 31, 2012, assume reinsurance for "credit insurance," as defined in G.S. 58-7-15(17)."

SECTION 8. G.S. 58-7-200(e) reads as rewritten:

"(e) Nothing in this section prohibits:

(1) A director or officer of any insurer from receiving the usual salary, compensation, or emoluments for services rendered in the ordinary course of that person's duties as a director or officer, if the salary, compensation, or emolument is authorized by vote of the board of directors of the insurer;

(2) Any insurer in connection with the relocation of the place of employment of an officer, including any relocation in connection with the initial employment of the officer, from (i) making, or the officer from accepting therefrom, a mortgage loan to the officer on real property owned by the officer that is to serve as the officer's residence or (ii) acquiring, or the officer from selling thereto, at not more than its fair market value, the officer's prior residence;

(3) The payment to a director or officer of any such insurer who is a licensed attorney-at-law of fees in connection with loans made by the insurer if and when the fees are paid by the borrower and do not constitute a charge against the insurer; ~~or~~

(4) An insurer from making a loan upon a policy held therein by the borrower not in excess of the policy's net ~~value.~~ value; or

(5) Subject to G.S. 58-19-30 and G.S. 58-7-163, an insurer from advancing funds to directors, officers, or controlling stockholders, for expenses reasonably expected to be incurred in the ordinary course of the insurer's business, as authorized or approved by the insurer's board of directors or by individuals authorized by the board and charged with the supervision or making of the advances."

SECTION 9. G.S. 58-30-10 reads as rewritten:

"§ **58-30-10. Definitions.**

~~As used in this Article, unless the context clearly indicates otherwise:~~ For the purposes of this Article only:

…

(14) "Insurer" means any entity that is or should be licensed under Articles 7, 16, 26, 47, 49, 64, 65, or 67 of this ~~Chapter or under Article 5 of Chapter 97 of the General Statutes. For the purposes of this Article, "insurer" also includes continuing care retirement communities that are or should be licensed under Article 64 of this~~ Chapter.

…."

SECTION 10. G.S. 58-2-240(c) reads as rewritten:

"(c) For purposes of subdivisions (b)(1) and (b)(1a) of this section only, the term "insurer" has the same meaning as in G.S. 58-30-10(14) and includes a:

(1) Reciprocal that is or should be licensed under Article 15 of this Chapter.

(2) Local government risk pool that chooses to operate under Article 23 of this Chapter.

(3) Fraternal benefit society that is or should be licensed under Article 24 of this Chapter.

(4) ~~Professional employer organization that is or should be licensed under Article 89A of this Chapter.~~ Self-insurer that is or should be licensed under Article 5 of Chapter 97 of the General Statutes."

SECTION 11. G.S. 58-47-65(a) reads as rewritten:

"(a) No group shall self-insure its workers' compensation liabilities under the Act unless it is licensed by the Commissioner under this Part. ~~This subsection does not apply to a group~~ Any self-insured group that was organized and approved under the North Carolina law before July 1, 1995, and whose authority to self-insure its workers' compensation liabilities under the Act has not terminated after that ~~date.~~ date, shall not be required to be reapproved to be licensed under this Article."

SECTION 12. G.S. 58-89A-5(16) reads as rewritten:

"(16) "Professional employer services" means an arrangement by which employees of a licensee are assigned to work at a client company and in which employment responsibilities are in fact shared by the licensee and the client company in accordance with G.S. 58-89A-100, the employee's assignment is intended to be of a long-term or continuing nature, rather than temporary or seasonal in ~~nature, and a majority of the workforce at a client company work site or a majority of the personnel of a specialized group within that workforce consists of assigned employees of the licensee.~~ nature. "Professional employer services" does not include services that provide temporary employees

or independent contractors, a personnel placement service, managed services, payroll services that do not involve employee staffing or leasing, the sharing of employees by commonly owned companies within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended, or similar groups that do not meet the requirements of this subdivision."

SECTION 13. G.S. 58-89A-30 reads as rewritten:

"§ **58-89A-30. Other provisions of this chapter.**

G.S. 58-2-45, 58-2-50, 58-2-55, 58-2-60, 58-2-65, 58-2-69, 58-2-70, 58-2-75, 58-2-100, 58-2-155, 58-2-163, 58-2-180, 58-2-185, 58-2-200, 58-2-240, and 58-3-100 shall apply to all persons licensed under this Article and all persons subject to licensure requirements under this Article."

SECTION 14. G.S. 58-89A-75 reads as rewritten:

"§ **58-89A-75. De minimus registration.**

(a) A person who seeks to offer limited professional employer services in this State shall be eligible for de minimis registration status upon compliance with this section and may operate as a de minimis registrant in this State upon notification pursuant to this section. A person shall satisfy the requirements for a de minimis registration only if the professional employer organization:

(1) Does not maintain a physical professional employer organization office located in this State;

(2) Does not employ salespersons who reside or direct their sales activities in this State;

(3) Does not employ directly or in common control with another person, as defined in G.S. 58-89A-5(12), more than 50 assigned employees in this State;

(4) Does not advertise through any media outlet physically located in this State;

(5) Is a licensed or registered professional employer organization in at least one other state of the United States; and

(6) Is operated by and under the control of persons of good moral character.

A professional employer organization operating under a de minimis registration shall be subject to all of the responsibilities and authority of a licensee under this Article except for G.S. 58-89A-50, 58-89A-60 and 58-89A-70(c), (d), and (e).

(b) A person seeking de minimis registration status shall notify the Commissioner, on a form prescribed by the Commissioner, attesting that the professional employer organization meets all of the eligibility requirements for de minimis registration status under this section and additionally provide, at a minimum, the following information:

(1) The name of the professional employer organization, the address of its principal office, the name of the contact person, and the taxpayer or employer identification number;

(2) A list by jurisdiction of each name under which the registrant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, successor business entities;

(3) A list of all officers, directors, and controlling person(s) of the registrant and their biographical information in a form to be determined by the Commissioner; and

(4) The location of the business records of the person.

(c) If the Commissioner finds that the person seeking de minimis registration has not fully met the requirements for de minimis registration, the person shall not be eligible for de minimis registration status, and the Commissioner shall notify the person in writing. Within 30 days after service of the notification, the person may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the person shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the person may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the person disagrees with the outcome.

(d) If the Commissioner determines that the notification of eligibility for de minimis registration is incomplete, the Commissioner shall notify the person of the deficiency, and the registrant shall be allowed time, not to exceed ~~15~~ 30 days from the date of the notice, to correct the deficiency. Failure of the person to correct the deficiency within the ~~15-day~~ 30-day time period shall result in the de minimis being deemed denied. Except as otherwise provided in this section, a person notified of a deficiency under this section may continue to operate while the deficiency is being corrected unless the Commissioner determines that the person is ineligible for de minimis registration status or is otherwise not authorized to operate in this State.

(e) After a de minimis registrant's initial notification, a de minimis registrant shall annually notify the Commissioner of its continuing eligibility for de minimis registration status no earlier than January 1 and no later than January 15 of each year. The annual notification shall include the attestation of eligibility for de minimis registration and any change in the information previously provided to the Commissioner under this section.

(f) A person operating under a de minimis registration to engage in professional employer services in North Carolina that ceases to satisfy any of the requirements for de minimis registration under this section shall apply for a professional employer organization license. The de minimis registrant may continue to operate in North Carolina pending approval of the registrant's application for a license provided the application is filed with the Commissioner no later than 30 days after the professional employer organization becomes ineligible for de minimis registration. If the application for licensure is denied or is not filed as prescribed in this section, the de minimis registrant must cease engaging in professional employer services in North Carolina."

SECTION 15. Article 10 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 6. Property and Casualty Actuarial Opinions.

"**§ 58-10-150. Statement of actuarial opinion.**

Every property and casualty insurance company doing business in this State, unless otherwise exempted by the Commissioner, shall annually submit the opinion of an appointed actuary entitled, "statement of actuarial opinion." This opinion shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions.

"**§ 58-10-155. Actuarial opinion summary.**

(a) Every property and casualty insurance company domiciled in this State that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, written by the company's appointed actuary. This actuarial opinion summary shall be filed in accordance with the appropriate NAIC Property and Casualty

Annual Statement Instructions and shall be considered as a document supporting the statement of actuarial opinion required in G.S. 58-10-150.

(b) A company licensed but not domiciled in this State, and a company writing business in this State although not specifically licensed to do so or otherwise authorized, shall provide the actuarial opinion summary upon request.

"**§ 58-10-160. Actuarial report and work papers.**

(a) An actuarial report and underlying work papers as required by the appropriate NAIC Property and Casualty Annual Statement Instructions shall be prepared to support each statement of actuarial opinion and actuarial opinion summary.

(b) If an insurance company fails to provide a supporting actuarial report or work papers at the request of the Commissioner or if the Commissioner determines that the supporting actuarial report or work papers provided by an insurance company are unsatisfactory to the Commissioner, the Commissioner may engage an independent, qualified actuary at the expense of the company to (i) review the opinion and the basis for the opinion and (ii) prepare an actuarial report or work papers.

"**§ 58-10-165. Monetary penalties for failure to provide documents.**

A company that fails to provide a statement of actuarial opinion, actuarial opinion summary, actuarial report, or work papers within the time frame provided in the Commissioner's written request, is subject to the monetary penalties set forth in G.S. 58-2-70.

"**§ 58-10-170. Qualified immunity of appointed actuary.**

The appointed actuary shall not be liable for damages to any person other than the insurance company or the Commissioner for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion, except in cases of fraud or willful misconduct by the appointed actuary.

"**§ 58-10-175. Confidentiality.**

(a) The statement of actuarial opinion shall be treated as a public record.

(b) Documents, materials, or other information in the possession or control of the Department that are considered an actuarial opinion summary, actuarial report, or work papers provided in support of the opinion, and any other material provided by the company to the Commissioner in connection with the actuarial opinion summary, actuarial report, or work papers shall be confidential by law and privileged, in accord with G.S. 58-2-240, shall not be subject to G.S. 58-2-100, shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any private civil action.

(c) Subsection (b) of this section shall not be construed to limit the Commissioner's authority to release documents to the Actuarial Board for Counseling and Discipline if the documents are required for the purpose of professional disciplinary proceedings and if the Actuarial Board for Counseling and Discipline establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents. In addition, this section shall not be construed to limit the Commissioner's authority to use any documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.

(d) Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (b) of this section.

(e) In order to assist in the performance of the Commissioner's duties, the Commissioner:

(1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (b) of this section with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality.

(2) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(3) May enter into agreements governing the sharing and use of information consistent with this section.

(f) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (e) of this section."

SECTION 16. G.S. 58-67-100 reads as rewritten:

"§ **58-67-100. Examinations.**

(a) The Commissioner may make an examination of the affairs of any health maintenance organization and the contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State but not less frequently than once every ~~three~~ five years. Examinations shall otherwise be conducted under G.S. 58-2-131 through G.S. 58-2-134.

(b) Repealed by Session Laws 1997-519, s. 1.

(c) Repealed by Session Laws 1995, c. 360, s. 2(m).

(d) Instead of conducting an examination, the Commissioner may accept the report of an examination made by the HMO regulator of another state."

SECTION 17. G.S. 58-58-50(b) reads as rewritten:

"(b) ~~The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this State, except that in the case of an alien company, such valuation shall be limited to its United States business, and may certify the amount of such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. Group methods and approximate averages for fractions of a year or otherwise may be used in calculating such reserves and the valuation made by the company may be accepted by the Commissioner upon such evidence of its correctness as the Commissioner may require. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory~~

~~official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.~~ Each year the Commissioner shall value or cause to be valued the reserve liabilities ("reserves") for all outstanding life insurance policies, annuity contracts, and pure endowment contracts of every life insurance company doing business in this State. In the case of an alien company, the valuation shall be limited to its United States business. The Commissioner may certify the amount of each company's reserves, specifying the mortality or morbidity tables, withdrawal rates, and other assumptions regarding when, and the degree to which, policyholders exercise contract options, such as full or partial withdrawal, rate or rates of interest, and methods, such as net level premium method or other, used in the Commissioner's calculation of the company's reserves. Group methods and approximate averages for fractions of a year or otherwise may be used by the Commissioner in calculating the company's reserves, and the Commissioner may accept the valuation made by the company upon evidence of its correctness that the Commissioner requires. For foreign or alien insurance companies, the Commissioner may accept any valuation made or caused to be made by the insurance regulator of any state or other jurisdiction if (i) that valuation complies with the minimum standard provided in this section and (ii) that regulator accepts as legally sufficient and valid the Commissioner's certificate of valuation when that certificate states that the valuation has been made in a specified manner according to which the aggregate reserves would be at least as great as if they had been computed in the manner prescribed by the law of that state or jurisdiction."

SECTION 18. G.S. 58-58-50(l) reads as rewritten:

"(l) The Commissioner may adopt rules for life insurers for the following matters:

(1) Reserves for contracts issued by insurers.

(2) Optional smoker-nonsmoker mortality tables permitted for use in determining minimum reserve liabilities and nonforfeiture benefits.

(3) Optional blended gender mortality tables permitted for use in determining nonforfeiture benefits for individual life policies.

(4) Optional tables acceptable for use in determining reserves and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(5) Assumptions for policyholder withdrawal rates for use in determining minimum reserve liabilities.

In adopting these rules, the Commissioner may consider model laws and regulations promulgated and amended from time to time by the NAIC."

SECTION 19. Sections 1 through 7 of this act become effective July 1, 2007. Section 15 of this act becomes effective October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 5:54 p.m. on the 27th day of June, 2007.

Session Law 2007-128 **Senate Bill 966**

AN ACT TO AUTHORIZE THE NORTH CAROLINA CAPITAL FACILITIES FINANCE AGENCY TO ISSUE BONDS FOR SALVAGE CENTERS, CERTAIN RESEARCH FACILITIES, AND INTERNATIONAL HEADQUARTERS OF NONPROFIT SCHOLARLY SOCIETIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159C-3(15a) reads as rewritten:

"(15a) Special purpose project. – Any structure, equipment, or other facility for any one or more of the following purposes:

a. Water systems or facilities, including all plants, works, instrumentalities, and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage, other than facilities constituting a water pollution control facility.

c. Public transportation systems, facilities, or equipment, including bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.

d. Public parking lots, areas, garages, and other public vehicular parking structures and facilities.

e. Public auditoriums, gymnasiums, stadiums, and convention centers.

f. Recreational facilities, including museums.

g. Land, equipment, and facilities for the disposal, treatment, or recycling of solid or other waste that are described in G.S. 159I-8.

h. Facilities for the provision of rehabilitation services, education, training, and employment opportunities for persons with disabilities and the disadvantaged. The term does not include a retail facility, however, unless the proposed operator of the facility certifies that at least seventy-five percent (75%) of its employees will be disadvantaged or disabled persons and at least seventy-five percent (75%) of its inventory will be composed of used, donated items and items manufactured by disadvantaged or disabled persons.

i. Orphanages and similar housing facilities for children or disadvantaged or disabled persons.

j. Facilities for the provision of material salvage and recycling services, the proceeds of which are used to provide for low, moderate, or affordable housing.

k. Research facilities owned or operated by a nonprofit corporation incorporated by two or more accredited universities whose main campuses are located in North Carolina or by the Chancellor, President, or similar official of such universities.

l. Facilities for housing the international headquarters of a nonprofit scholarly society that is a member of the Scholarly Societies Project."

SECTION 2. G.S. 159D-37(6a) reads as rewritten:

"§ **159D-37. Definitions.**

As used or referred to in this Article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

…

(6a) "Project" means any one or more buildings, structures, equipment, improvements, additions, extensions, enlargements, or other facilities comprising any of the following:

a. Educational facilities used by an institution for higher education or an institution for elementary and secondary education, including dormitories and other housing facilities, housing facilities for student nurses, dining halls and other food preparation and food service facilities, student unions, administration buildings, academic buildings, libraries, laboratories, research facilities, classrooms, athletic facilities, health care facilities, laundry facilities, and other structures or facilities related to these facilities or required or useful for the instruction of students, the conducting of research, or the operation of the institution.

b. Student housing facilities to be owned or operated by an owner or operator other than an institution for higher education or an institution for elementary and secondary education.

c. A special purpose project as defined in G.S. 159C-3.

The term "project" ~~also~~ includes landscaping, site preparation, furniture, equipment and machinery, and other similar items necessary or convenient for operation of a particular ~~facility, building, or structure~~ facility in the manner for which its use is ~~intended, and~~intended. The term also includes all appurtenances and incidental facilities, such as headquarters or office facilities, maintenance, storage, or utility ~~facilities~~ facilities, parking facilities, and other ~~structures or~~ facilities related to, required, or useful for the operation of the ~~facilities,~~project or ~~including parking and other facilities or structures~~ essential or convenient for the orderly conduct of the facility. The term "project" does not include ~~such~~ the cost of items ~~as books, fuel, or supplies or other items the costs of which~~ that customarily result in a current operating ~~charge.~~ charge, such as books, fuel, or supplies. The term does not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility that is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination."

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 5:55 p.m. on the 27th day of June, 2007.

Session Law 2007-129 **House Bill 1617**

AN ACT TO REQUIRE INVESTIGATIONS OF THE USE OF DEADLY FORCE BY LAW ENFORCEMENT OFFICERS UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-90. Investigations of uses of deadly force.**

In every instance in which a private citizen is killed as a result of the use of a firearm by a law enforcement officer in the line of duty, the district attorney in the prosecutorial district in which the death occurred shall, upon the request of the surviving spouse or next of kin of the private citizen within 180 days of the death, request the State Bureau of Investigation to conduct an investigation into the incident. For purposes of this section, the term "next of kin" includes only the child, father, mother, sister, or brother of the private citizen.

Statements prepared by or on behalf of a district attorney pursuant to this section are not public records as defined by G.S. 132-1 and may be released by the district attorney only as provided by G.S. 132-1.4 or other applicable law."

SECTION 2. This act becomes effective October 1, 2007, and applies to acts occurring on or after that date.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 5:59 p.m. on the 27th day of June, 2007.

Session Law 2007-130 **House Bill 696**

AN ACT TO ENSURE FAMILY SUPPORT GRANTS ARE PROVIDED TO COMMUNITY-BASED AGENCIES TO IMPLEMENT ONLY FAMILY SUPPORT PROGRAMS THAT ARE RESEARCH-BASED AND HAVE BEEN EVALUATED FOR EFFECTIVENESS UNDER THE LAWS PERTAINING TO THE FAMILY RESOURCE CENTER GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-152.10 reads as rewritten:

"**§ 143B-152.10. Family Resource Center Grant Program; creation; purpose; intent.**

(a) There is created in the Department of Health and Human Services the Family Resource Center Grant Program. The purpose of the program is to provide grants to ~~establish family resource centers~~implement family support programs that are research-based and have been evaluated for effectiveness that provide services to children from birth through ~~elementary school age~~17 years of age and to their families that:

(1) Enhance the children's development and ability to attain academic and social success;

(1a) Prevent child abuse and neglect by implementing program models that have been evaluated and found to improve outcomes for children and families;

(2) Ensure a successful transition from early childhood education programs and child care to the public schools;
(3) Assist families in achieving economic independence and self-sufficiency; and
(4) Mobilize public and private community resources to help children and families in need.

(b) It is the intent of the General Assembly to encourage and support broad-based collaboration among public and private agencies and among people who reflect the racial and socioeconomic diversity in communities to develop initiatives that (i) ~~prepare children to learn effectively and to have a successful school experience,~~improve outcomes for children by preventing child abuse and neglect, (ii) enhance and strengthen the ability of families to ensure the safety, health, and well-being of their children, (iii) enhance the ability of families to become advocates for and supporters of ~~education for~~ the children in their families, and ~~(iii)~~(iv) enhance the ability of families to function as nurturing and effective family units.

(c) It is further the intent of the General Assembly that this program shall be targeted to those neighborhoods that have disproportionately high levels of (i) children who would be less likely to attain educational or social success, (ii) families with low incomes, and (iii) crime and juvenile delinquency."

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 6:00 p.m. on the 27th day of June, 2007.

Session Law 2007-131 **House Bill 1456**

AN ACT TO FACILITATE THE ACQUISITION AND DISPOSITION OF PROPERTY AND THE PROCUREMENT OF GOODS AND SERVICES BY REGIONAL SOLID WASTE MANAGEMENT AUTHORITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-427(b) reads as rewritten:

"(b) The acquisition and disposal of real and personal property by an authority created under this Article shall be governed by those provisions of the General Statutes which govern the acquisition and disposal of real and personal property by ~~counties~~ counties, except that Article 8 of Chapter 143 of the General Statutes and Part 3 of Article 8 of Chapter 153A of the General Statutes do not apply. No authority created pursuant to this Article shall exercise any power of eminent domain with respect to any property located outside the territorial jurisdiction of the members of such authority."

SECTION 2. G.S. 153A-427(c) reads as rewritten:

"(c) Each authority's plan shall take into consideration facilities and other resources for management of solid waste which may be available through private enterprise. This Article shall be construed to encourage the involvement and participation of private enterprise in solid waste management. An authority created pursuant to this Article shall establish goals for the procurement of goods and services from minority and historically underutilized businesses."

SECTION 3. G.S. 143-129.2(f) reads as rewritten:

"(f) ~~The~~ Except for authorities created pursuant to Article 22 of Chapter 153A of the General Statutes, the construction work for any facility or structure that is ancillary to a solid waste or sludge management facility and that does not involve storage and processing of solid waste or sludge or the separation, extraction, and recovery of useful or marketable forms of energy and materials from solid waste at a solid waste management facility shall be procured through competitive bidding procedures described by G.S. 143-128 through 143-129.1. Ancillary facilities include but are not limited to roads, water and sewer lines to the facility limits, transfer stations, scale houses, administration buildings, and residue and bypass disposal sites."

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 6:01 p.m. on the 27th day of June, 2007.

Session Law 2007-132 **House Bill 775**

AN ACT TO REVISE THE UNIFORM SIMULTANEOUS DEATH ACT, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 24 of Chapter 28A of the General Statutes reads as rewritten:

"Article 24.

"~~Uniform~~ 120-Hour Survivorship Requirement; Revised Simultaneous Death Act.

"§ **28A-24-1. ~~Disposition of property where no sufficient evidence of survivorship.~~ Definitions.**

~~Where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this Article.~~

In this Article:

(1) "Co-owners with right of survivorship" includes joint tenants in a joint tenancy with right of survivorship, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitle one or more to the whole of the property or account on the death of the other or others.

(2) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with a POD designation, pension, profit sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

(3) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

"§ **28A-24-2. ~~Beneficiaries of another person's disposition of property.~~ Requirement of survival by 120 hours.**

(a) ~~Other than as provided in subsection (b) below, if property is so disposed of that the right of a beneficiary to succeed to any interest therein is conditional upon his surviving another person and both persons die, and there is no sufficient evidence that the two have died other than simultaneously, the beneficiary shall be deemed not to have survived.~~ Except as otherwise provided in this Article, where the title to property, the devolution of property, the right to elect an interest in property, or any other right or benefit depends upon an individual's survivorship of the death of another individual, an individual who is not established by clear and convincing evidence to have survived the other individual by at least 120 hours is deemed to have predeceased the other individual.

(b) ~~If property is so disposed of that it is to be distributed among such members of a class as survive another person and there is no sufficient evidence that one or more members of the class and such other person died other than simultaneously, each member of the class so dying will be deemed to have survived such other person.~~ If the language of the governing instrument disposes of property in such a way that two or more beneficiaries are designated to take alternatively by reason of surviving each other and it is not established by clear and convincing evidence that any such beneficiary has survived any other such beneficiary by at least 120 hours, the property shall be divided into as many equal shares as there are alternative beneficiaries, and these shares shall be distributed respectively to each such beneficiary's estate.

(c) ~~If property is so disposed of that its disposition depends upon the time of death of two or more beneficiaries designated to take alternatively by reason of survivorship and there is no sufficient evidence that such beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are alternative beneficiaries who would have taken the whole property if they had survived and such portions shall be distributed respectively to each such beneficiary.~~ If the language of the governing instrument disposes of property in such a way that it is to be distributed to the member or members of a class who survived an individual, each member of the class will be deemed to have survived that individual by at least 120 hours unless it is established by clear and convincing evidence that the individual survived the class member or members by at least 120 hours.

"§ **28A-24-3. ~~Joint tenants or tenants by the entirety.~~Co-owners with right of survivorship; requirement of survival by 120 hours.**

~~(a) Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property shall be distributed one half as if one had survived and one half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.~~

~~(b) For the purpose of this section, the term "joint tenants" includes owners of property held under circumstances which entitled one or more to the whole of the property on the death of the other or others.~~

Except as otherwise provided in this Article, (i) if it is not established by clear and convincing evidence that one of two co-owners with right of survivorship survived the other co-owner by at least 120 hours, one-half of the property passes as if one had survived by at least 120 hours and one-half as if the other had survived by at least 120 hours and (ii) if there are more than two co-owners with right of survivorship and it is not established by clear and convincing evidence that at least one of them survived the

others by at least 120 hours, the property passes to the estates of each of the co-owners in the proportion that one bears to the whole number of co-owners.

"§ **28A-24-4. ~~Insurance policies.~~ Survival of an event; 120-hour period not applicable.**

~~Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.~~

For purposes of a governing instrument that requires survival of an event, other than the death of another individual, the 120-hour survivorship requirement of this Article does not apply.

"§ **28A-24-5. ~~Article does not apply if decedent provides otherwise.~~ Victim deemed to survive slayer.**

~~This Article shall not apply in the case of wills, living trusts, deeds, contracts of insurance, or any other situation wherein provision has been made for distribution of property different from the provisions of this Article, or wherein provision has been made for a presumption as to survivorship which results in a distribution of property different from that herein provided.~~

Notwithstanding any other provisions of this Article, solely for the purpose of determining whether the victim is entitled to any right or benefit that depends on surviving the death of a slayer under G.S. 31A-3, the slayer is deemed to have predeceased the victim and the victim is deemed to have survived the slayer by at least 120 hours (or any greater survival period required of the victim under the slayer's will or other governing instrument) unless it is established by clear and convincing evidence that the slayer survived the victim by at least 120 hours.

"§ **28A-24-6. ~~Uniformity of interpretation.~~Exceptions to the 120-hour survival requirement.**

~~This Article shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.~~

Survival by 120 hours is not required if any of the following apply:

(1) The governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and the language is operable under the facts of the case.

(2) The governing instrument expressly indicates that an individual is not required to survive the death of another individual by any specified period or expressly requires the individual to survive another individual for a specified period; but survival must be established by clear and convincing evidence.

(3) The imposition of a 120-hour requirement of survival would cause a nonvested property interest or a power of appointment to fail to qualify for validity under G.S. 41-15; but survival must be established by clear and convincing evidence.

(4) The application of a 120-hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition; but survival must be established by clear and convincing evidence.

(5) The application of a 120-hour requirement of survival would deprive an individual or the estate of an individual of an otherwise available tax exemption, deduction or credit, expressly including the marital

deduction, resulting in the imposition of a tax upon a donor or testator or other person (or their estate) as the transferor of any property. "Tax" includes any federal or State gift, estate or inheritance tax.

(6) The application of a 120-hour requirement of survival would result in an escheat.

"§ **28A-24-7. ~~Short title.~~ Evidence of death or status.**

~~This Article may be cited as the Uniform Simultaneous Death Act.~~

For purposes of this Article, the following rules of evidence apply relating to the determination of death and status of a beneficiary subject to a requirement of survivorship and of the person the beneficiary must survive:

(1) Death occurs when an individual is determined to be dead pursuant to G.S. 90-323 or Chapter 28C of the General Statutes.

(2) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency in the place where the death purportedly occurred is prima facie evidence of the fact, place, date, and time of death and the identity of the decedent. In the absence of evidence disputing the death certificate, that certificate shall be conclusive evidence of the fact, place, date, and time of death and the identity of the decedent.

(3) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that an individual is missing, detained, dead, or alive is prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report. The record or report is conclusive evidence of the status and of the dates, circumstances, and places disclosed by the record or report unless there is evidence to the contrary.

(4) In the absence of prima facie evidence of death under subdivision (2) or (3) of this section, the fact of death may be established by clear and convincing evidence, including circumstantial evidence.

"**§ 28A-24-8. Protection of payors, bona fide purchasers, and other third parties; personal liability of recipient.**

(a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a person designated in a governing instrument who, under this Article, is not entitled to the payment or item of property, or for having taken any other action in good faith reliance on the person's apparent entitlement under the terms of the governing instrument, before the payor or other third party received written notice of a claimed lack of entitlement under this Article. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed lack of entitlement under this Article.

Written notice of a claimed lack of entitlement under this Article must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed lack of entitlement under this Article, a payor or other third party may pay any amount owed or transfer or deposit any item of property other than tangible personal property held by it to or with the clerk of the superior court having jurisdiction of the probate proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or with the clerk of the superior court having jurisdiction of probate

proceedings relating to decedents' estates located in the county of the decedent's residence. The clerk shall hold the funds or item of property and, upon the clerk's determination under this Article, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the clerk discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the clerk.

(b) A person who purchases property for value and without notice, or who received a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this Article to return the payment, item of property, or benefit, nor liable under this Article for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this Article is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this Article."

SECTION 2. G.S. 29-13 reads as rewritten:

"§ **29-13. Descent and distribution upon ~~intestacy.~~ intestacy; 120-hour survivorship requirement, revised simultaneous death act, Article 24, Chapter 28A.**

(a) All the estate of a person dying intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment of State inheritance or estate taxes, as provided in this Chapter.

(b) The determination of whether an heir has predeceased a person dying intestate shall be made as provided by Article 24 of Chapter 28A of the General Statutes."

SECTION 3.(a) The catch line of G.S. 31-42 reads as rewritten:

"§ **31-42. Failure of devises by lapse or otherwise; ~~renunciation.~~ renunciation; 120-hour survivorship requirement, revised simultaneous death act, Article 24, Chapter 28A.**"

SECTION 3.(b) G.S. 31-42 is amended by adding a new subsection to read:

"(c1) The determination of whether a devisee has predeceased the testator shall be made as provided by Article 24 of Chapter 28A of the General Statutes."

SECTION 4. G.S. 31A-14 reads as rewritten:

"§ **31A-14. ~~Uniform~~ Revised Simultaneous Death Act not applicable.**

The ~~Uniform~~ Revised Simultaneous Death Act, ~~G.S. 28A-24-1 through G.S. 28A-24-7,~~ Article 24 of Chapter 28A of the General Statutes, shall not apply to cases governed by this Chapter."

SECTION 5. This act becomes effective October 1, 2007, and applies to determinations of title to or devolution of property dependent upon the death of an individual occurring on or after that date.

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 6:02 p.m. on the 27th day of June, 2007.

Session Law 2007-133 **House Bill 748**

AN ACT TO COVER EXTRA PRESCRIPTIONS DURING A STATE OF EMERGENCY OR DISASTER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-3-228. Coverage for extra prescriptions during a state of emergency or disaster.**

(a) All health benefit plans as defined in G.S. 58-3-167, the Teachers' and State Employees' Comprehensive Major Medical Plan, and any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes, and other stand-alone prescription medication plans issued by entities that are licensed by the Department shall have, when an event described in subdivision (b)(1) of this section occurs and the requirements of subdivisions (b)(2) and (b)(3) of this section are satisfied, a procedure in place to waive time restrictions on filling or refilling prescriptions for medication if requested by the covered person or subscriber. The procedure shall include waiver or override of electronic "refill too soon" edits to pharmacies and shall include provision for payment to the pharmacy in accordance with the prescription benefit plan and applicable pharmacy provider agreement. The procedure shall enable covered persons or subscribers to:

(1) Obtain one refill on a prescription if there are authorized refills remaining, or

(2) Fill one replacement prescription for one that was recently filled, as prescribed or approved by the prescriber of the prescription that is being replaced and not contrary to the dispensing authority of the dispensing pharmacy.

(b) All entities subject to this section shall authorize payment to pharmacies for any prescription dispensed in accordance with subsection (a) of this section regardless of the date upon which the prescription had most recently been filled by a pharmacist, if all of the following conditions apply:

(1) The Commissioner issues a Bulletin Advisory notifying all insurance carriers licensed in this State of a declared state of disaster or state of emergency in North Carolina. The Department shall provide a copy of the Bulletin to the North Carolina Board of Pharmacy.

(2) The covered person requesting coverage of the refill or replacement prescription resides in a county that:

a. Is covered under a proclamation of state of disaster issued by the Governor or by a resolution of the General Assembly under G.S. 166A-6, or a declaration of major disaster issued by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended; or

b. Is declared to be under a state of emergency in a proclamation issued by the Governor under G.S. 14-288.15.

(3) The prescription medication is requested within 29 days after the origination date of the conditions stated in subdivision (b)(1) of this section.

(c) The time period for the waiver of prescription medication refills may be extended in 30-day increments by an order issued by the Commissioner. Additional refills still remaining on a prescription shall be covered by the insurer as long as consistent with the orders of the prescriber or authority of the dispensing pharmacy.

(d) This section does not excuse or exempt an insured or subscriber from any other terms of the policy or certificate providing coverage for prescription medications.

(e) Quantity limitations shall be consistent with the original prescription and the extra or replacement fill may recognize proportionate dosage use prior to the disaster.

(f) No requirements additional to those under the pharmacy provider agreement or the prescription benefit plan may be placed upon the provider for coverage of the replacement fill or extra fill.

(g) Nothing in this section is intended to affect the respective authority or scope of practice of prescribers or pharmacies."

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

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Became law upon approval of the Governor at 6:03 p.m. on the 27th day of June, 2007.

Session Law 2007-134 **Senate Bill 125**

AN ACT TO ADD ETHYL ALCOHOL AS A SUBSTANCE SPECIFICALLY NAMED AS A TOXIC VAPOR AND TO MAKE ILLEGAL AN INSTRUMENT THAT CAN BE USED TO VAPORIZE OR INTRODUCE ETHYL ALCOHOL INTO THE BODY UNLESS IT IS A DEVICE USED TO DELIVER A PRESCRIPTION MEDICATION OR AN APPROVED OVER-THE-COUNTER MEDICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.10 reads as rewritten:

"§ **90-113.10. Inhaling fumes for purpose of causing intoxication.**

It is unlawful for any person to knowingly breathe or inhale any compound, liquid, or chemical containing toluol, hexane, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, ethyl alcohol, or any other substance for the purpose of inducing a condition of intoxication. This section does not apply to any person using as an inhalant any chemical substance pursuant to the direction of a ~~physician or dentist.~~licensed medical provider authorized by law to prescribe the inhalant or chemical substance possessed."

SECTION 2. Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-113.10A. Alcohol vaporizing devices prohibited.**

It shall be unlawful for any person to knowingly manufacture, sell, give, deliver, possess, or use an alcohol vaporizing device. As used in this section, 'alcohol vaporizing device' or 'AVD' means a device, machine, apparatus, or appliance that is designed or marketed for the purpose of mixing ethyl alcohol with pure or diluted oxygen, or another gas, to produce an alcoholic vapor that an individual can inhale or snort. An AVD does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense either a substance prescribed by a licensed medical provider authorized by law to prescribe the inhalant or chemical substance

possessed, or an over-the-counter medication approved by monograph or new drug application under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301, et seq.), provided the instrument is not used for the purpose of inducing a condition of intoxication through inhalation. Violation of this section is not a lesser included offense of G.S. 90-113.22."

SECTION 3. G.S. 90-113.11 reads as rewritten:

"§ **90-113.11. Possession of substances.**

It is unlawful for any person to possess any compound, liquid, or chemical containing toluol, hexane, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, ethyl alcohol, or any other substance which will induce a condition of intoxication through inhalation for the purpose of violating G.S. 90-113.10."

SECTION 4. G.S. 90-113.12 reads as rewritten:

"§ **90-113.12. Sale of substance.**

It is unlawful for any person to sell, offer to sell, deliver, give, or possess with the intent to sell, deliver, or give any other person any compound, liquid, or chemical containing toluol, hexane, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, ethyl alcohol, or any other substance which will induce a condition of intoxication through inhalation if he has reasonable cause to suspect that the product sold, offered for sale, given, delivered, or possessed with the intent to sell, give, or deliver, will be used for the purpose of violating G.S. 90-113.10."

SECTION 5. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 6:05 p.m. on the 27th day of June, 2007.

Session Law 2007-135 **Senate Bill 513**

AN ACT AUTHORIZING THE CITY OF WILMINGTON, NEW HANOVER COUNTY, AND A WATER AND SEWER AUTHORITY TO CONTRACT FOR SEWER-RELATED CONSTRUCTION, REPAIR, OR REPLACEMENT PROJECTS WITHOUT COMPLYING WITH SPECIFIED PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Wilmington, New Hanover County, and a Water and Sewer Authority created by the City or County pursuant to Article 1 of Chapter 162A of the General Statutes may contract for construction, repair, or replacement projects related to the Northeast Interceptor Sewer Force Main without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132.

SECTION 2. G.S. 143-135 reads as rewritten:

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

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when ~~either~~

the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000).~~ eight hundred thousand dollars ($800,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 3. This act applies only to the City of Wilmington, New Hanover County, and a Water and Sewer Authority created by the City or the County pursuant to Article 1 of Chapter 162A of the General Statutes.

SECTION 4. Section 2 of this act applies only to projects related to the construction, repair, or replacement of the Northeast Interceptor Sewer Force Main.

SECTION 5. This act is effective when it becomes law and expires December 31, 2009.

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-136 **Senate Bill 617**

AN ACT EXEMPTING COUNTY VEHICLES USED BY MECKLENBURG COUNTY EMPLOYEES TO CARPOOL WITH EACH OTHER FROM THE PROVISIONS OF G.S. 14-247.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-247 reads as rewritten:

"§ **14-247. Private use of publicly owned vehicle.**

(a) It shall be unlawful for any officer, agent or employee of the State of North Carolina, or of any county or of any institution or agency of the State, to use for any private purpose whatsoever any motor vehicle of any type or description whatsoever belonging to the State, or to any county, or to any institution or agency of the State. It is not a private purpose to drive a permanently assigned state- owned motor vehicle between one's official work station and one's home as provided in G.S. 143-341(8)i7a.

It shall be unlawful for any person to violate a rule or regulation adopted by the Department of Administration and approved by the Governor concerning the control of all state-owned passenger motor vehicles as provided in G.S. 143-341(8)i with the intent to defraud the State of North Carolina.

(b) Notwithstanding the provisions of subsection (a) of this section, county employees may carpool with each other in county vehicles as lawfully permitted by the county."

SECTION 2. This act applies to Mecklenburg County only.

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-137 **Senate Bill 654**

AN ACT AUTHORIZING RUTHERFORD COUNTY TO CONDUCT AN ADVISORY REFERENDUM ON A HIGH IMPACT LAND-USE ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. The board of commissioners of a county may direct the board of elections of that county to conduct an advisory referendum on a high impact land-use ordinance.

SECTION 2. The board of commissioners shall decide the form and content of the issue on the ballot and define the area that will be voting. The content shall include a specific reference to the types of high impact land-use zoning, such as heavy industrial use.

SECTION 3. Any referendum under this act must be conducted during 2007.

SECTION 4. This section applies to Rutherford County only.

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-138 **House Bill 1089**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FRANKLINTON TO PROVIDE FOR A COUNCIL-MANAGER FORM OF GOVERNMENT AND TO ALLOW THE LAKE ROYALE COMPANY POLICE TO ENTER INTO MUTUAL AID AGREEMENTS WITH FRANKLIN COUNTY FOR THE PURPOSE OF PARTICIPATING IN A MULTI-JURISDICTIONAL DRUG TASK FORCE AT THE REQUEST OF THE FRANKLIN COUNTY SHERIFF.

The General Assembly of North Carolina enacts:

SECTION 1. Article IV of the Charter of the Town of Franklinton, being Chapter 160 of the Session Laws of 1993, reads as rewritten:

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. **Form of Government.** The Town shall operate under the ~~Mayor-Council~~ Council-Manager form of government, in accordance with ~~Part 3~~ Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Clerk.** The ~~Board~~ Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

~~"Sec. 4.3. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town, subject to general law, this Charter, and Town ordinances.~~

"Sec. 4.4. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent

the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Sec. 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions and may organize the Town government as deemed appropriate, subject to the requirements of general law."

SECTION 2. The Lake Royale Company Police shall be considered a law enforcement agency under the provisions of G.S. 160A-288(b)(2) for the purpose of participating in a multi-jurisdictional drug task force at the request of the Franklin County Sheriff.

SECTION 3. Section 2 of this act applies only to the Lake Royale Company Police serving the Lake Royale community in Franklin and Nash Counties.

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-139 **House Bill 1163**

AN ACT AMENDING CERTAIN DESCRIBED PROPERTY TO BE ADDED TO THE CORPORATE LIMITS OF THE TOWN OF LANDIS AND AUTHORIZING THE TOWN TO EXERCISE PLANNING AND ZONING POWERS IN THE DESCRIBED AREA PRIOR TO ANNEXATION OF THE AREA.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2006-58 reads as rewritten:

"**SECTION 1.(a)** The following described property is added to the corporate limits of the Town of Landis:

TRACT I:

BEGINNING at a point in the center of the Fleming Crossroads and Five Forks Rd. on Atwell's line: thence North 33 West with said Road 680 feet to a stake in the center of said Road, corner of Lot 2; thence South 57 West 420 feet to a stake; thence South 15 West 1650 feet to an iron stake; corner of Lot 2; thence North 88 West 1318 feet to Carter's line, corner to Lot No. 1; thence South 3-3/4 West 650 feet to a stone, Carter's corner on Chester Deal's line; thence with Chester Deal's line, South 88 East 2359 feet to an iron stake on Atwell's line; thence North 4 East 1929 feet to the Beginning. Containing 71 acres, more or less. SAVE AND EXCEPT the following described real estate conveyed to Latt J. Carter and wife, Myrtle S. Carter, by deed recorded in Deed Book 337 at page 300, Rowan County Registry. Located about one mile North from Saw, near the Mill Bridge Road. Beginning at a stone and an iron pipe, Carter's corner in the line of the C.C. Deal Estate, and runs thence with the Carter line, North 3-3/4 deg. East 242 feet to an iron pipe, a new corner in the Carter Line; thence two new lines as follows: (1) South 86-3/4 deg. East 900 feet to an iron pipe, a new corner, (2) South 3-3/4 deg. West 242 feet to an iron pipe, a new corner in the Carter line; thence with the Carter line, North 86-3/4 deg. West, passing the Carter corner, 900 feet to the Beginning, containing 5 acres, more or less.

TRACT II:

BEGINNING at a point on the Northern side of Brown Road in the line of Leroy Wilhelm, this beginning point lying North 89 East 250.52 feet, more or less, from an old corner of the C.K. Atwell property near the point where a dirt road intersects Brown

Rd., this beginning point also lies south 89 West 1168.48 feet, more or less, from an old corner of C.K. Atwell and Worth Corriher in the line of Leroy Wilhelm, and runs thence along the Wilhelm line, North 89 East 1168.48 feet, more or less, to a stake, a corner of Worth Corriher; thence along the old line, the same being a line of Worth Corriher, due South 1567 feet, more or less, to a stake, an old corner; thence continuing along another line of Worth Corriher, South 89 West 1168.48 feet, more or less, to a point, a new corner, this being the corner of John K. Atwell's tract in the line of Worth Corriher: thence along a new line due North 1567.5 feet, more or less, to a point in the old line, the point of Beginning. Said tract containing 42.048 acres. LESS AND EXCEPT 3.97 acres more or less. Reference tax parcel ID 223-036.

TRACT III:

BEGINNING at a stone in the field on the west side of a dirt road running between Brown Rd. and Patterson Rd., this beginning point being a corner of Lots Nos. 4 and 5 as shown on the map of "L.A. Corriher's Mt. Moriah Church Farm", being also a corner of George R. Fleming, Hubert I. Patterson, and Leonard Patterson, and also being an old original corner of the C.K. Atwell Property, and runs thence along the old line, the same being the line of Lot No. 5 as shown on the map of the "L.A. Corriher's Mt. Moriah Church Farm" property, South 85 East 381 feet to a stake, corner of Tract No. 5 and also an old corner; thence continuing along the old line, the same being a line of Leroy Wilhelm, due South 1699.5, 5 feet to a stake, an old corner; thence continuing along the old line and along Wilhelm's line, North 89 East 250.52 feet to a point, a new corner, this corner lying South 89 East 1168.48 feet from the corner of Sue Evelyn Atwell and Worth Corriher; thence along a new line running due South 1567.5 feet, more or less, to a point, a new corner in the old line, said line being an old line of Worth Corriher; thence with Corriher's line and continuing with the line of Latt J. Carter, South 89 West 745.52 feet; more or less, to a stake, corner of Tract No. 3 as shown on the map of "L.A. Corriher's Mt. Moriah Church Farm", this being a corner of Lamont Goodnight; thence along Goodnight's line and along the line of Tract No. 3 North 4 East 1983 feet to a stone on the North side of Brown Rd. said stone being in the line of Tract No. 4; thence continuing along the line of Tract 4 North 3-15 East 1373 feet to a stone, the point of BEGINNING.

TRACT IV:

BEGINNING at a stake on bank of branch Sloan Freeze's corner; thence N. 4 E. 14.17 chains to a stone S.G. Pethel's corner; thence S. 24 E. 10.00 chains to a persimmon tree Pethel's corner; thence S. 60 W. 2.60 chains to a cedar; thence N. 80 W. 3.23 chains to an ash; thence S. 77 W. 3.06 chains to poplar; thence S. 76 W. 7.73 chains to the BEGINNING, containing 16 1/10 acres more or less.

TRACT V:

On the waters of Grant's Creek, BEGINNING at a black jack on Bostian's line and runs South 74 poles to a hickory; thence South 89 West 176 poles to a Spanish oak; thence North 74 poles to a sourwood; thence North 89 East 176 poles to the BEGINNING, containing (85) acres, more or less. LESS AND EXCEPT all the portion of land located on the west side of Millbridge Rd. containing 32.43 acres more or less.

TRACT VI:

BEGINNING at a nail and cap at the intersection of the center lines of Mill Bridge Rd. (State Road No. 1350) and Concordia Church Rd. (State Rd. No. 1554) and runs thence with the center line of Mill Bridge Road South 6 deg. 45 min. West 114 feet to a point in the center line of said rd; thence three new lines with Wilma D. Carrigan as follows: (1) South 84 deg. 30 min. East 566.7 feet to an iron rod; and (3) North 79 deg. 53 min.

West 596.8 feet to an iron cap in the center line of Mill Bridge Rd.; thence with the center line of Millbridge Rd. South 2 deg. 13 min. West 297.9 feet to the point of BEGINNING, and containing 5.2 acres, said description being in accordance with map prepared for Wilma D. Carrigan dated May 25, 1976, by Hudson and Almond Surveyors.

TRACT VII:

BEGINNING at an existing iron, said iron further referenced as being the southeast corner of Ruth Freeze, Larry Freeze, and Valerie Freeze as found in Deed Book 802, page 148 and further referenced as Tax Map 225 Parcel 003 and further referenced as being the northeast corner of Freddie D. Freeze as found in Deed Book 690, page 895 and further referenced as Tax Map 225, Parcel 062; thence continuing along a new line South 76 deg. 43 min. 32 sec. East 2,370.31 feet to an existing iron rod being located in the line of a lake for the Town of Landis; thence continuing along border of said lake, South 19 deg. 59 deg. 34 sec. West 97.00 feet to a point; thence continuing South 39 deg. 03 min. 34 sec. West 170.05 feet; thence continuing South 32 deg. 5 min. 04 sec. West 149.67 feet; thence South 35 deg. 33 min. 25 sec. West 18.72 feet to a point; thence North 85 deg. 31 min. 52 sec. East 100.00 feet to a point; thence North 51 deg. 35 min. 58 sec. West 148.00 feet to a point; thence continuing North 67 deg. 12 min. 21 sec. west 1,738.38 feet to a point; thence continuing North 86 deg. 41 min. 30 sec. West 230.22 feet to a point; thence continuing North 26 deg. 39 min. 38 sec. West 94.19 feet to the point of BEGINNING.

TRACT VIII:

BEGINNING at a computed point in the centerline of N.C. Highway 152 and in the corner of a 3.943 acre tract: thence with said 3.943 acre tract North 15 degrees 32 minutes 56 seconds West passing an existing #5 rebar at 51.14 feet for a total distance of 388.78 feet to an existing #5 rebar in the line of a 3.943 acre tract; thence with said 3.943 acre tract North 21 degrees 44 minutes 35 seconds West passing an existing #5 rebar 201.36 feet for a total distance of 406.96 feet to an existing #5 rebar in the line of a 3.943 acre tract; thence with said 3.943 acre tract North 88 degrees 00 minutes 00 seconds West 67.73 feet to an existing #5 rebar at the corner of a 3.943 acre tract and Harrill S. Wiggins; thence with Wiggins North 02 degrees 00 minutes 00 seconds East passing an existing 1" pipe at 671.74 feet for a total distance of 1329.79 feet to an existing 1" pipe in the corner of Murrah A. Corriher; thence with the Corriher North 88 degrees 00 minutes 00 seconds West 394.32 feet to a set #5 rebar in the corner of Murray A. Corriher; thence with the Corriher North 03 degrees 18 minutes 47 seconds East passing an existing 1.5" pipe at 465.69 feet for a total distance of 632.72 feet to a pipe in R.S. Freeze's line; thence with Freeze North 02 degrees 33 minutes 35 seconds East 4.76 feet to an existing stone in the corner of R.S. Freeze and S.E. Campbell, thence with Campbell North 42 degrees 19 minutes 54 seconds East 394.74 feet to an existing 36" sweet gum in the corner of S.E. Campbell; thence with Campbell following the courses and distances: (1) South 13 degrees 08 minutes 55 seconds East 280.34 feet to an existing ½" pipe; thence (2) South 14 degrees 02 minutes 57 seconds West 166.00 feet to an existing #8 rebar; thence (3) South 89 degrees 11 minutes 23 seconds East 974.81 feet to an existing railroad spike in the corner of S.E. Campbell and J.A. Lipe Heirs; thence with Lipe South 02 degrees 42 minutes 38 seconds West 2,024.40 feet to a nail in the corner of Johnsie Deaton Fisher and Wiley Dale Wilson; thence with Wilson North 87 degrees 46 minutes 45 seconds West 15 feet to an existing 5" flat bar in the corner of Wiley Dale Wilson; thence with Wilson South 02 degrees 37 minutes 01 seconds West passing an existing 5" flat bar at 500.66 feet for a total distance of 527.35

feet to a computed point in the centerline of N.C. Highway 152; thence with N.C. Highway 152 South 84 degrees 05 minutes 14 seconds West 312.09 feet to the place and point of BEGINNING and containing 51.831 acres as shown on the boundary survey of the Stewart M. Beaver Estate prepared by Rufus Jackson Love, R.L.S. dated September 24, 1996.

~~TRACT IX:~~

~~BEGINNING at a 1" iron spike, said spike being located in centerline of the margin of the right-of-way for Lake Wright Road and further referenced as being located in the common lines of R. Brian Johnson as found in Deed Book 792, Pages 931 and 932, the same being designated in Rowan County Tax Supervisor's Office as being Tax Map 225, Parcel 72 and in the common line of Wallace G. Lyerly as found in Deed Book 571, Page 465, the same being designated in the Rowan County Tax Supervisor's Office as being Tax Map 120, Parcel 4, said point further referenced as being located North 50 deg. 54 min. 16 sec. West 664.96 feet from a computed point, said computed point being located along the centerline of the intersection of Lake Wright Road and N.C. Highway 152, said point further referenced as being located South 80 deg. 19 min. 15 sec. West 267.15 feet from an existing iron spike, said iron spike being the common corner of two separate tracts as purchased by R. Brian Johnson, the same being designated in the Rowan County Tax Supervisor's Office as being Tax Map 225, Parcel 72 and Tax Map 120, Parcel 5; thence, from the point of BEGINNING the following courses and distances: North 50 deg. 54 min. 16 sec. West 389.78 feet to a 4" flat blade, said blade being the common corner of Wallace G. Lyerly and the common corners of Lots Nos. 10 and 11, the Fisher Farm Estates, as found in the Rowan County Register of Deeds Office at Book of Maps, Page 3218; thence continuing North 49 deg. 59 min. 54 sec. West 794.72 feet to a 1-1/4" existing iron rod, said iron rod being the common corner of Lots Nos. 7 and 8; thence continuing North 49 deg. 31 min. 21 sec. West 55.17 feet to a 1/2" iron pin, said iron pin being the common corner of Jeffrey L. McCollum; thence continuing along the common line of Jeffrey L. McCollum North 49 deg. 31 min. 14 sec. West 420.99 feet to a 1/2" existing iron pin, said iron pin being the common corner of J. A. Deaton Properties, LTD, and Jeffrey L. McCollum; thence continuing along the common line of J. A. Deaton Properties, LTD, North 49 deg. 31 min. 14 sec West 421 feet to an existing iron pin, said iron pin being located in the common line of Sandra Lee Sinclair as found in Deed Book 787, Page 828; thence continuing along the common line of Sandra Lee Sinclair North 1 deg. 31 min. 47 sec. East 451.33 feet to an existing spike, said spike in a leaning 20" maple, said spike further referenced as being the common corner of Sandra Lee Sinclair and Steven E. Campbell as found in Deed Book 565, Page 731; thence continuing along the common line of Steven E. Campbell the following courses and distances: North 1 deg. 47 min. 20 sec East 403.78 feet (passing a nail set in a 1" iron rod .28' Southeast of property line at 203.60 feet) to an existing nail, said nail being located by 5/8" existing iron rod; thence continuing North 47 deg. 00 min. 24 sec. East 618.11 feet (passing a 1" existing iron rod, the same being .61' Northwest of property line at 417.13 feet) to an existing nail by a 5/8" existing iron rod, said iron rod being the common corner of Steven E. Campbell and The Warrior Golf Club, LLC, as found in Deed Book 796, Page 409; thence continuing along the common line of The Warrior Golf Club, LLC, South 88 deg. 24 min. 30 sec. East 776.04 feet to an existing nail by a 1" existing iron rod, the same being the common corner of The Warrior Golf Club, LLC, as designated in Rowan County Tax Supervisor's Office as being Tax Map 225, Parcels 76 and 5; thence continuing along the common line of The Warrior Golf Club, LLC, South 87 deg. 15 min. 46 sec.~~

~~East. 386.24 feet (passing a ½" existing iron rod at 312.82 feet, the same being the common corner of Thomas E. Tweed as found in Deed Book 712, Page 265) to a new iron pin, said iron pin being located along an existing stone and being the common line of Thomas E. Tweed; thence continuing along the common line of Thomas E. Tweed South 89 deg. 25 min. 33 sec. East 154.3 feet to a new iron pin, said iron pin being located on the right-of-way of Lake Wright Road and being the common corner of Thomas E. Tweed; thence continuing within the margin of the right-of-way for Lake Wright Road South 89 deg. 25 min. 33 sec East 25.64 feet to a computed point, said computed point being the centerline of Lake Wright Road and further referenced as being located North 89 deg. 25 min. 33 sec. West 21.28 feet from the common corner of R. Brian Johnson as found in Deed Book 792, Pages 931 and 932; thence, continuing with the margin of a right-of-way for Lake Wright Road, the following courses and distances: (1) South 13 deg. 22 min. 6 sec. West 620.54 feet; (2) South 12 deg. 47 min. 47 sec. West 599.16 feet; (3) along a curve having a radius of 1227.70 feet with a chord bearing and distance of South 6 deg. 39 min. 15 sec. West 262.70 feet and an arc length of 263.20 feet; (4) South 0 deg. 30 min. 47 sec. West 562,52 feet to a point; (5) along a curve having a radius of 804. 15 feet with a chord bearing and distance of South 4 deg. 43 min. 51 sec. West 118.30 feet and an arc length of 118.40 feet; (6) South 8 deg. 56 min. 58 sec. West 80.89 feet; and (7) along a curve having a radius of 439.02 feet with a chord bearing and distance of 16 deg. 43 min. 26 sec. East 380.40 feet and an arc length of 393.44 feet. LESS AND EXCEPTING, HOWEVER, all of Lots Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, as shown upon the map of WRIGHT FIELD, recorded in Map Book 9995, at Page 4481, Rowan County Registry. The property conveyed herewith is all of Parcel 006 on Rowan County Tax Map 225.~~

TRACT X:

Being a parcel of land located in Atwell Township, Rowan County, North Carolina, and being designated as Rowan County tax parcels 223-012 and being more particularly described as follows: Beginning at a point whose Northing is 673520 and whose Easting is 1509377; thence bearing N 3-1-3 E a distance of 242.00 feet; thence bearing S 87-34-40 E a distance of 900.01 feet; thence bearing S 2-49-2 W a distance of 243.49 feet; thence bearing S 87-5-43 E a distance of 851.14 feet; thence bearing S 12-37-0 E a distance of 294.75 feet; thence bearing S 20-46-5 E a distance of 176.10 feet; thence bearing S 27-15-21 E a distance of 259.68 feet; thence bearing N 42-27-36 W a distance of 197.10 feet; thence bearing N 33-41-57 W a distance of 69.17 feet; thence bearing N 20-53-26 W a distance of 152.58 feet; thence bearing S 67-45-2 W a distance of 31.68 feet; thence bearing S 22-12-41 E a distance of 153.72 feet; thence bearing S 28-6-7 E a distance of 317.93 feet; thence bearing S 39-31-26 W a distance of 71.88 feet; thence bearing N 27-37-48 W a distance of 538.03 feet; thence bearing N 82-37-48 W a distance of 834.79 feet; thence bearing N 3-5-22 E a distance of 290.41 feet; thence bearing N 87-29-40 W a distance of 841.78 feet; thence bearing S 87-29-40 E a distance of 841.78 feet; thence bearing N 87-29-40 W a distance of 841.78 feet to the point of beginning. Containing 13.36 acres more or less and being a portion of the same properties as described in Book 598, page 386.

TRACT XI:

Being a parcel of land located in Atwell Township, Rowan County, North Carolina, and being designated as Rowan County tax parcels 225-063, 225-064, 225-003, 225-073, 228-083, and being more particularly described as follows: Beginning at a point whose Northing is 670662 and whose Easting is 1505659; thence bearing S 86-53-27 E a distance of 478.04 feet; thence bearing S 87-26-19 E a distance of 434.64 feet; thence

bearing S 87-23-24 E a distance of 744.65 feet; thence bearing N 3-3-51 E a distance of 66.07 feet; thence bearing N 74-58-54 E a distance of 506.29 feet; thence bearing N 75-58-44 E a distance of 201.96 feet; thence bearing S 81-1-16 E a distance of 213.18 feet; thence bearing N 59-9-48 E a distance of 80.05 feet; thence bearing S 33-57-34 E a distance of 22.14 feet; thence bearing N 50-18-56 E a distance of 88.44 feet; thence bearing S 68-29-1 E a distance of 140.41 feet; thence bearing S 42-39-14 E a distance of 304.26 feet; thence bearing S 45-31-19 E a distance of 325.75 feet; thence bearing S 18-21-23 W a distance of 164.94 feet; thence bearing S 15-33-11 W a distance of 163.72 feet; thence bearing S 86-0-29 W a distance of 83.50 feet; thence bearing S 0-23-58 E a distance of 52.42 feet; thence bearing S 65-48-57 E a distance of 75.75 feet; thence bearing S 10-4-57 W a distance of 146.00 feet; thence bearing S 21-53-46 E a distance of 129.83 feet; thence bearing S 21-0-24 W a distance of 232.05 feet; thence bearing N 80-51-36 W a distance of 38.87 feet; thence bearing S 20-28-44 W a distance of 137.71 feet; thence bearing S 19-43-53 W a distance of 41.32 feet; thence bearing N 76-56-7 W a distance of 2369.35 feet; thence bearing N 69-31-53 W a distance of 445.65 feet; thence bearing S 18-1-8 W a distance of 291.33 feet; thence bearing N 76-40-25 W a distance of 438.87 feet; thence bearing N 16-18-49 E a distance of 855.78 feet to the point of beginning. Containing 77.66 acres more or less and being the same properties as described in Book 802, page 148; Book 861, page 285; Book 841, page 926; and Book 90E, page 85.

"**SECTION 1.(b)** This section becomes effective September 30, ~~2007.~~2008.

"**SECTION 2.** Notwithstanding subsection 1(b) of this act, the Town of Landis may begin to exercise its planning and zoning powers ~~under Article 19 of Chapter 160A of the General Statutes in~~ within the area described in subsection 1(a) of this act ~~after the date that~~ when this act becomes law.

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

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-140 **House Bill 1144**

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

The General Assembly of North Carolina enacts:

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

Beginning at an iron pin located in the eastern right-of-way line of N.C. Secondary Road No. 1209, said point of beginning being located in the south line of lands owned now or formerly by Martha Overton and the north line of lands now or formerly belonging to Comillos J. Liverman, Jr., and wife (Tyrrell county tax parcel C1-1), and described in the deed recorded in Book 154 page 298, Tyrrell County Registry; proceeding thence from the point of beginning North 39 degrees 30 minutes East along the Overton-Liverman lines 140 feet to another iron pin; proceeding thence and continuing along the north line of Carl Willis and wife North 39 degrees 30 minutes East 112 feet to another iron pin; proceeding thence South 30 degrees 45 minutes East 213 feet, more or less, along the southwest line of lands now or formerly belonging to

Kenneth Cooper (Tyrrell County tax parcel T74-14) which is also the northeast line of lands now or formerly belonging to Carl L. Willis and wife (Tyrrell County tax parcel C1-2) and described in the deed recorded in Book 140 page 88, Tyrrell County Registry, to another iron pin; proceeding thence South 30 degrees 45 minutes East 200 feet along the northeast line of lands now or formerly belonging to Loretta B. Combs (Tyrrell County tax parcel C1-3) and described in Deed Book 133 page 23, Tyrrell Registry, to an iron pin in the north corner of the lands now or formerly belonging to Mike Everett Cahoon and wife (Tyrrell County tax parcel C1-4) and described in Deed Book 131 page 564, Tyrrell Registry; proceeding thence along the Cahoon northeast line South 30 degrees 45 minutes East 200 feet to an iron pin lying at the north line of the lands now or formerly belonging to Ronald Brickhouse and wife; proceeding thence South 26 degrees 30 minutes East 125 feet along the east line of lands now or formerly belonging to Ronald Brickhouse and wife (Tyrrell County tax parcel C2-1) and described in Deed Book 123 page 507, Tyrrell County Registry, 125 feet to another iron pin lying in the north corner of the lands now or formerly belonging to Kenneth Jeske and wife (Tyrrell County tax parcel C2-7) and described in Deed Book 144 page 413, Tyrrell County Registry; proceeding thence along the Jeske east line South 26 degrees 30 minutes East 150 feet more or less to an iron pin in the eastern corner of the Jeske property which also marks the western right-of-way line of S.R. 1227 and also the northern terminus of the right-of-way of S.R. 1227; proceeding thence in a southeasterly direction along the line of the S. R. 1227 right-of-way terminus to the southeast margin of the right-of-way of S.R. 1227; proceeding thence in a southwesterly direction along the southeast margin of S.R. 1227 to an iron pin in the north corner of the lands of Kenneth Jeske and wife (Tyrrell County tax parcel T74-15) and described in Deed Book 165 page 779, Tyrrell County Registry; proceeding thence along the northeast line of Jeske South 65 degrees East 193 feet to an iron pin; proceeding thence South 36 degrees West 230 feet to an iron pin in the north corner of the lands now or formerly belonging to Kenneth W. Cooper, Jr. (Tyrrell County tax parcel T74-20) and described in Deed Book 120 page 436, Tyrrell County Registry; proceeding thence along the dividing line between Cooper and the Christ Disciple Church lands 450 feet, more or less, to an iron pin lying on the east margin of the right-of-way of N.C. 1209; proceeding thence in a northwesterly direction and following the east margin of the right-of-way of N.C. 1209 to the point or place of beginning.

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

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-141 **House Bill 1153**

AN ACT TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF SUNSET BEACH.

The General Assembly of North Carolina enacts:

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

Beginning at a point in the north right-of-way of Georgetown Road located North 79 degrees 32 minutes 53 seconds West a distance of 95.27 feet from the center line intersection of Seaside Road (NC 904) and Georgetown Road (SR 1163), thence with

the northern R/W of Georgetown Road South 81 degrees 56 minutes 12 seconds West for a distance of 1,024.11 feet to a point, thence South 82 degrees 08 minutes 23 seconds West for a distance of 139.29 feet to a point, thence South 81 degrees 09 minutes 00 seconds West for a distance of 159.73 feet, thence South 80 degrees 10 minutes 31 seconds West for a distance of 159.00 feet to a point, thence South 78 degrees 09 minutes 42 seconds West for a distance of 157.68 feet to a point, thence South 76 degrees 24 minutes 45 seconds West for a distance of 157.94 feet to a point, thence South 74 degrees 26 minutes 42 seconds West for a distance of 2,453.76 feet to a point, thence South 75 degrees 28 minutes 13 seconds West for a distance of 156.58 feet to a point, thence South 78 degrees 43 minutes 11 seconds West for a distance of 155.90 feet to a point, thence South 82 degrees 47 minutes 55 seconds West for a distance of 79.57 feet to a point, thence South 86 degrees 29 minutes 57 seconds West for a distance of 157.42 feet to a point, thence North 89 degrees 33 minutes 53 seconds West for a distance of 157.75 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 99.91 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 57.62 feet to a point, thence North 86 degrees 58 minutes 35 seconds West for a distance of 1,661.70 feet to a point, thence North 87 degrees 54 minutes 16 seconds West for a distance of 108.52 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 67.24 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 34.74 feet to a point, thence North 89 degrees 56 minutes 20 seconds West for a distance of 108.75 feet to a point, thence South 87 degrees 10 minutes 26 seconds West for a distance of 104.83 feet to a point, thence South 84 degrees 13 minutes 54 seconds West for a distance of 104.22 feet to a point, thence South 81 degrees 54 minutes 06 seconds West for a distance of 703.32 feet to a point, thence South 78 degrees 01 minutes 09 seconds West for a distance of 160.86 feet to a point, thence South 75 degrees 17 minutes 01 seconds West for a distance of 117.18 feet to a point, thence leaving said R/W, with Williamson North 03 degrees 50 minutes 58 seconds East for a distance of 738.01 feet to a point, North 25 degrees 45 minutes 58 seconds East for a distance of 379.29 feet to a point, thence South 80 degrees 26 minutes 00 seconds East for a distance of 332.90 feet to a point, thence North 46 degrees 22 minutes 35 seconds East for a distance of 445.80 feet to a point, thence North 20 degrees 01 minutes 05 seconds East for a distance of 119.23 feet to a point, thence North 02 degrees 44 minutes 00 seconds East for a distance of 231.08 feet to a point, thence North 20 degrees 13 minutes 54 seconds West for a distance of 858.54 feet to a point, thence North 40 degrees 56 minutes 31 seconds West for a distance of 754.87 feet to a point, thence North 69 degrees 23 minutes 17 seconds West for a distance of 383.85 feet to a point, thence North 59 degrees 08 minutes 03 seconds West for a distance of 506.14 feet to a point, thence South 82 degrees 02 minutes 41 seconds West for a distance of 392.44 feet to a point, thence North 00 degrees 47 minutes 36 seconds East for a distance of 289.29 feet to a point, thence North 32 degrees 44 minutes 13 seconds West for a distance of 567.68 feet to a point, thence North 14 degrees 46 minutes 26 seconds East for a distance of 527.71 feet to a point, thence North 13 degrees 23 minutes 20 seconds West for a distance of 552.27 feet to a point, thence leaving Williamson and with Gore North 48 degrees 36 minutes 29 seconds East for a distance of 522.27 feet to a point, thence South 81 degrees 15 minutes 47 seconds East for a distance of 1,917.49 feet to a point, thence North 33 degrees 44 minutes 54 seconds East for a distance of 987.09 feet to a point, thence South 18 degrees 09 minutes 22 seconds East for a distance of 656.05 feet to a point, thence North 78 degrees 50 minutes 37 seconds East for a distance of 544.98 feet to a

point, thence North 42 degrees 45 minutes 00 seconds East for a distance of 428.97 feet to a point, thence South 46 degrees 38 minutes 41 seconds East for a distance of 387.97 feet to a point, thence South 17 degrees 01 minutes 51 seconds West for a distance of 875.25 feet to a point, thence South 18 degrees 38 minutes 02 seconds East for a distance of 1,154.75 feet to a point, thence South 46 degrees 45 minutes 07 seconds East for a distance of 1,261.28 feet to a point, thence South 44 degrees 09 minutes 11 seconds West for a distance of 550.01 feet to a point, thence South 39 degrees 27 minutes 18 seconds East for a distance of 1,023.06 feet to a point, thence South 57 degrees 26 minutes 17 seconds East for a distance of 981.14 feet to a point, thence South 80 degrees 10 minutes 49 seconds East for a distance of 1,103.46 feet to a point, thence North 72 degrees 10 minutes 18 seconds East for a distance of 560.50 feet to a point, thence North 22 degrees 54 minutes 21 seconds East for a distance of 718.74 feet to a point, thence North 09 degrees 49 minutes 10 seconds West for a distance of 674.30 feet to a point, thence North 28 degrees 34 minutes 02 seconds East for a distance of 409.31 feet to a point, thence North 17 degrees 07 minutes 01 seconds West for a distance of 304.01 feet to a point, thence North 34 degrees 02 minutes 59 seconds East for a distance of 168.11 feet to a point in western R/W of Seaside Rd., thence with R/W South 31 degrees 17 minutes 20 seconds East for a distance of 553.49 feet to a point, thence South 32 degrees 32 minutes 57 seconds East for a distance of 669.63 feet to a point, thence South 32 degrees 14 minutes 51 seconds East for a distance of 940.15 feet to a point, thence South 31 degrees 35 minutes 35 seconds East for a distance of 102.55 feet to a point, thence South 28 degrees 17 minutes 50 seconds East for a distance of 135.97 feet to a point, thence South 25 degrees 33 minutes 45 seconds West for a distance of 59.96 feet to the place and point of beginning, containing 529.72 acres, more or less.

This description is based on maps of record and is for annexation purposes only.

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law on the date it was ratified.

Session Law 2007-142 **House Bill 1758**

AN ACT TO AMEND THE LAWS GOVERNING THE REMOVAL OF MERCURY SWITCHES FROM VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.50 reads as rewritten:

"§ **130A-310.50. Definitions.**

As used in this Part:

~~(1)~~ ~~"Capture rate" means the annual removal, collection, and recovery of mercury switches as a percentage of the total number of mercury switches available for removal from end-of-life vehicles.~~

(2) "End-of-life vehicle" means a vehicle that is sold, given, or otherwise conveyed to a vehicle crusher, vehicle dismantler, vehicle ~~recycler~~ recycler, or scrap ~~metal recycling~~ vehicle processing facility for the purpose of recycling.

(2a) "Inaccessible", when used in connection with mercury switch, means that, due to the condition of the vehicle, the mercury switch cannot be

removed from a vehicle without a significant risk of a release of mercury into the environment.

~~(3) "Manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a new vehicle that utilizes mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle.~~

~~(4) "Mercury minimization plan" means a plan for removing, collecting, and recovering mercury switches from end-of-life vehicles that is prepared as provided in G.S. 130A-310.53.~~

(5) "Mercury switch" means each ~~mercury-containing capsule,~~capsule or assembly containing mercury ~~commonly known as a "bullet",~~ that is part of a convenience light switch ~~assembly~~ installed in a vehicle.

(5a) "Mercury recovery performance ratio" means the ratio of the number of pounds of mercury recovered from mercury switches from the State in a calendar year to the estimated number of pounds of mercury available to be recovered from mercury switches from the State in the same calendar year.

(5b) "National mercury recovery performance ratio" means the ratio of the number of pounds of mercury recovered from mercury switches from the United States in a calendar year to the estimated number of pounds of mercury available to be recovered from mercury switches from the United States in the same calendar year.

(5c) "NVMSRP" means the Memorandum of Understanding to establish the National Vehicle Mercury Switch Recovery Program dated 11 August 2006.

(6) "Scrap ~~metal recycling~~vehicle processing facility" means a fixed location where machinery and equipment are used to process scrap ~~metal~~ vehicles into ~~specific grades of scrap metal for sale and whose primary product is scrap iron, scrap steel, or nonferrous metallic scraps~~specification grade commodities including facilities where a shredder or fragmentizer is used to process scrap vehicles into shredded scrap and facilities where end-of-life vehicles are prepared to be shredded.

(7) "Vehicle" means any passenger automobile or passenger car, station wagon, truck, van, or sport utility vehicle with a gross vehicle weight rating of less than 12,000 pounds.

(7a) "Vehicle crusher" means a person who engages in the business of flattening, crushing, or otherwise processing end-of-life vehicles for recycling. Vehicle crusher includes, but is not limited to, a person who uses fixed or mobile equipment to flatten or crush end-of-life vehicles for a vehicle recycler or a scrap vehicle processing facility.

(7b) "Vehicle dismantler" has the same meaning as "vehicle recycler."

(7c) "Vehicle manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a motor vehicle that contains one or more mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle. "Vehicle manufacturer" does not include any person engaged

in the business of selling new motor vehicles at retail or any person who converts or modifies new motor vehicles after the production or assembly process.

(8) "Vehicle recycler" means ~~an~~ a ~~individual~~ person or entity engaged in the business of acquiring, dismantling, or destroying six or more end-of-life vehicles in a calendar year for the primary purpose of resale of parts of the ~~vehicle.~~vehicle, including scrap metal."

SECTION 2. G.S. 130A-310.52 is repealed.

SECTION 3. G.S. 130A-310.53 reads as rewritten:

"§ **130A-310.53. Removal of mercury switches from end-of-life vehicles.**

(a) ~~A vehicle recycler that conveys ownership of an end-of-life vehicle to a scrap metal recycling facility shall remove all mercury switches identified in the mercury minimization plan prior to delivery of the vehicle to the scrap metal recycling facility. If a mercury switch is inaccessible, the fact that the mercury switch remains in the vehicle shall be noted on the vehicle recycler's invoice.~~ A vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall not flatten, crush, bale, or shred an end-of-life vehicle that contains accessible mercury switches. Except as provided in this subsection, a vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall remove all accessible mercury switches from end-of-life vehicles before the vehicle is flattened, crushed, baled, or shredded, or before the vehicle is conveyed to another vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility. If a vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility conveys an end-of-life vehicle to another vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility without removing accessible mercury switches, the receiving vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility must agree to accept the end-of-life vehicle and assume responsibility for the proper removal of all accessible mercury switches. The agreement to assume responsibility for the proper removal of all accessible mercury switches shall be documented on an invoice that is provided by the vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility to the person to whom the vehicle is conveyed.

(b) ~~A scrap metal recycling facility that accepts an end-of-life vehicle that has not been flattened, crushed, baled, or shredded and that contains mercury switches shall remove the mercury switches before the end-of-life vehicle is flattened, crushed, baled, or shredded unless the mercury switch is inaccessible.~~ A vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility that removes all accessible mercury switches from an end-of-life vehicle shall mark the vehicle to indicate that all accessible mercury switches have been removed. The vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall certify to any person to whom the vehicle is conveyed, in a form acceptable to the Department, that all accessible mercury switches have been removed from the vehicle.

~~(c) A mercury switch is inaccessible if, due to the condition of the vehicle, the switch cannot be removed in accordance with the mercury minimization plan and removal of the switch would significantly increase the risk of a release of mercury into the environment.~~

~~(d) A vehicle recycler or scrap metal recycling facility that removes mercury switches pursuant to subsection (a) or (b) of this section shall make quarterly reports to the Department on the following:~~

~~(1) The number of vehicles that it processed for recycling.~~

~~(2) The number of vehicles from which it removed a mercury switch by make.~~

~~(3) The number of vehicles for which it could not remove the mercury switch because the switch was inaccessible.~~

(e) Mercury switches that are removed from end-of-life vehicles are considered "universal waste" as defined in 40 Code of Federal Regulations § 273.9 (1 July ~~2004~~ 2006 Edition). Mercury switches that are removed from end-of-life vehicles shall be collected, transported, treated, stored, disposed of, and otherwise handled in accordance with rules adopted by the Commission governing universal waste.

(f) Vehicle manufacturers, in cooperation with the Department, shall develop, implement, and bear the costs of a mercury switch collection system in accordance with the NVMSRP. This system shall be developed and implemented so as to enhance vehicle recyclability, promote public education and outreach, and provide for the proper removal, collection, and disposal of mercury switches from end-of-life vehicles."

SECTION 4. G.S. 130A-310.54 reads as rewritten:

"§ **130A-310.54. ~~Funds to implement plan.~~Mercury Switch Removal Account.**

(a) The Mercury ~~Pollution Prevention~~Switch Removal Account is established in the Department. Revenue is credited to the Account from the certificate of title fee under G.S. 20-85.

(b) Revenue in the Mercury ~~Pollution Prevention~~Switch Removal Account shall be used to reimburse the Department and others for costs incurred in implementing the mercury ~~minimization plan.~~switch removal program. The reimbursable costs are:

(1) Five dollars ($5.00) for each mercury switch removed by a vehicle crusher, vehicle dismantler, vehicle ~~recycler~~ recycler, or scrap ~~metal recycling~~vehicle processing facility pursuant to this ~~Article.~~Article and sent to destination facilities in accordance with the NVMSRP for recycling or disposal.

(2) Costs incurred by the Department in administering the ~~plan.~~program.

(c) The Department shall reimburse vehicle ~~recyclers~~ crushers, vehicle dismantlers, vehicle recyclers, and scrap ~~metal recycling~~vehicle processing facilities based on ~~the quarterly reports submitted under G.S. 130A-310.53. The Department may request any information needed to determine the accuracy of the reports.~~a reimbursement request that attests to the number of switches sent to destination facilities for recycling or disposal in accordance with the NVMSRP. Each reimbursement request shall be verified against information posted on the Internet site provided by the vehicle manufacturers in accordance with the NVMSRP, or against other information that verifies the reimbursement requested to the satisfaction of the Department. The vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall provide the Department with any information requested by the Department to verify the accuracy of a reimbursement request. Each vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall maintain accurate records that support each reimbursement request for a minimum of three years from the date the reimbursement request is approved."

SECTION 5. G.S. 130A-310.55 reads as rewritten:

"§ **130A-310.55. Violations of Article; enforcement.**

(a) It is unlawful for a person to do any of the following:

(1) Knowingly flatten, crush, bale, shred, or otherwise alter the condition of a vehicle from which accessible mercury switches have not been

removed, in any manner that would prevent or significantly hinder the removal of a mercury switch.

(2) Willfully fail to remove a mercury switch when the person is required to do so.

(3) Knowingly make a false report that a mercury switch has been removed from an end-of-life vehicle.

(4) Obtain a mercury switch from another source and falsely report that it was removed from a vehicle processed for recycling.

(b) ~~This Part may be enforced as provided in Part 2 of Article 1 of this Chapter.~~ Any person who violates subdivision (1) or (2) of subsection (a) of this section shall be punished as provided in G.S. 14-3.

(c) Any person who violates subdivision (3) or (4) of subsection (a) of this section shall be guilty of a Class 2 misdemeanor and, upon conviction, shall be punished as provided in G.S. 130A-26.2.

(d) A violation of any provision of this Part, any rule adopted pursuant to this Part, or any rule governing universal waste may be enforced by an administrative or civil action as provided in Part 2 of Article 1 of this Chapter."

SECTION 6. G.S. 130A-310.56 is repealed.

SECTION 7. G.S. 130A-310.57 reads as rewritten:

"§ **130A-310.57. ~~Report on plan.~~Reports.**

The Department shall ~~publish~~ submit an annual report on the mercury ~~minimization plan~~switch removal program under this Part to the Environmental Review Commission and the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources on or before ~~November 1.~~1 October of each year. The report shall include, at a minimum, all of the following:

(1) A detailed description ~~and documentation~~ of the mercury recovery performance ratio ~~capture rate achieved.~~achieved by the mercury switch removal program.

(1a) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.

(2) In the event that a ~~capture rate~~ mercury recovery performance ratio of at least ~~ninety percent (90%)~~ 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury ~~minimization plan and its implementation.~~ switch removal program.

(3) The number of mercury switches ~~collected, the number of end-of-life vehicles containing mercury switches, the number of end-of-life vehicles processed for recycling,~~ collected and a description of how the mercury switches were managed.

(4) A statement that details the costs required to implement the mercury ~~minimization plan.~~switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 8. G.S. 20-85(a1) reads as rewritten:

"(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from

transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional one dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury ~~Pollution Prevention~~Switch Removal Account in the Department of Environment and Natural Resources."

SECTION 9. Sections 1, 2, 6, 7, and 9 of this act become effective when this act becomes law. Sections 3, 4, and 8 of this act become effective 1 July 2007. Section 5 of this act becomes effective 1 July 2007 and applies to violations that occur on or after that date. The Department shall submit the first annual report required by G.S. 130A-310.57, as enacted by Section 7 of this act, on or before 1 October 2008. This act expires on 31 December 2017.

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 1:58 p.m. on the 29th day of June, 2007.

Session Law 2007-143 **House Bill 654**

AN ACT TO AMEND THE DEFINITION OF RETIREMENT TO CLARIFY THAT SERVICE AS A MEMBER OF A SCHOOL BOARD IS NOT CONSIDERED SERVICE FOR THE PURPOSE OF THAT DEFINITION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" means the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, service as a member of a school board shall not be considered service."

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 2:03 p.m. on the 29th day of June, 2007.

Session Law 2007-144 **Senate Bill 254**

AN ACT AUTHORIZING THE STATE BOARD OF ELECTIONS TO USE HAVA FUNDS AND DELAYING THE EFFECTIVE DATE OF THE TICKET TO WORK PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Elections is authorized to expend funds from the Election Fund under G.S. 163-82.28 (HAVA funds) for maintenance performed on voting equipment, and funds in the amount of two million five hundred thousand dollars ($2,500,000) are hereby appropriated for the 2007-2008 fiscal year for that purpose.

SECTION 2. Section 10.18(c) of S.L. 2005-276, as amended by Section 10.9(a) of S.L. 2006-66, reads as rewritten:

"**SECTION 10.18.(c)** Subsection (b) of this section becomes effective July 1, 2006. Subsection (a) of this section becomes effective ~~July 1, 2007.~~ July 1, 2008."

SECTION 3. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 2:08 p.m. on the 29th day of June, 2007.

Session Law 2007-145 **House Bill 2044**

AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 2007; APPROPRIATING FUNDS FOR INCREASES IN THE AVERAGE DAILY MEMBERSHIP IN THE PUBLIC SCHOOLS; EXTENDING THE PROVISION THAT PERMITS RETIRED TEACHERS TO RETURN TO THE CLASSROOM WITHOUT A LOSS OF RETIREMENT BENEFITS; DELAYING THE EFFECTIVE DATE OF CHANGES TO THE MEDICAID ESTATE RECOVERY PLAN; AND EXTENDING THE SUNSET ON THE ADDITIONAL ONE-QUARTER CENT STATE SALES AND USE TAX FROM JULY 1, 2007, UNTIL AUGUST 1, 2007.

The General Assembly of North Carolina enacts:

PART I. BUDGET CONTINUATION

SECTION 1. The Director of the Budget may continue to allot funds for expenditure by State departments, institutions, and agencies at a level not to exceed the level of recurring expenditures authorized in S.L. 2006-66, as amended. The Director of the Budget may continue to allot funds from the Escheat Fund and Escheat Fund income for expenditure by the Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Department of Administration, Division of Veterans Affairs, for need-based student financial aid programs to aid worthy and needy students as provided by Article IX, section 10 of the State Constitution at a level not to exceed the level of recurring expenditures authorized in S.L. 2006-66, as amended.

The Director of the Budget shall not allocate funds for any of the purposes set out in the budget reductions contained in House Bill 1473, fifth edition, and House Bill 1473, eighth edition, that are not in controversy.

Vacant positions subject to proposed budget reductions in both House Bill 1473, fifth edition, and House Bill 1473, eighth edition, shall not be filled.

To the extent necessary to implement this authorization, there is appropriated from the appropriate State funds and cash balances, federal receipts, and departmental receipts for the 2007-2008 fiscal year funds necessary to carry out this section.

The appropriations and the authorizations to allocate and spend funds which are set out in this section shall remain in effect until the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1, 2007.

Except as otherwise provided by this act, the limitations and directions for the 2006-2007 fiscal year set out in S.L. 2005-276, as amended, and in S.L. 2006-66, as amended, remain in effect. Session laws that applied to appropriations to particular agencies or for particular purposes apply to the funds appropriated and authorized for expenditure under this section.

PART II. FEDERAL BLOCK GRANTS

SECTION 2. The Director of the Budget shall continue to allocate federal block grant funds at the levels provided in Sections 5.1 and 5.2 of S.L. 2006-52 and as otherwise provided by law, and appropriations from federal block grants are hereby made.

PART III. NO AUTOMATIC STEP INCREASE FOR STATE AND PUBLIC SCHOOL EMPLOYEES

SECTION 3. State employees subject to G.S. 7A-102(c), 7A-171.1, or 20-187.3 shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly.

Public school employees paid on the teacher salary schedule or the school-based administrator salary schedule shall not move up on salary schedules or receive automatic step increases until authorized by the General Assembly.

PART IV. SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 4.(a) The State's employer contribution rates budgeted for retirement and related benefits for the 2007-2008 fiscal year shall remain the same as they are on June 30, 2007.

SECTION 4.(b) The State's employer contribution rates established by this section are effective until the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law and are subject to revision in that act. If the Current Operations and Capital Improvements Appropriations Act of 2007 modifies these rates, the Director of the Budget shall further modify the rates set in that act for the remainder of the 2007-2008 fiscal year so as to compensate for the different amount contributed between July 1, 2007, and the date the Current Operations and Capital Improvements Appropriations Act of 2007 becomes law so that the effective rates for the entire year reflect the rates set in the Current Operations and Capital Improvements Appropriations Act of 2007.

PART V. FUNDS SHALL NOT REVERT

SECTION 5.(a) If the provisions of either House Bill 1473, fifth edition, or House Bill 1473, eighth edition, or both, direct that funds shall not revert, the funds shall not revert on June 30, 2007. Unless these funds are encumbered on or before June 30, 2007, these funds shall not be expended after June 30, 2007, except as provided by a law enacted after June 30, 2007.

SECTION 5.(b) This section becomes effective June 30, 2007.

PART VI. STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30

SECTION 6.(a) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2006-2007 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2007.

SECTION 6.(b) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the 2006-2007 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2007.

SECTION 6.(c) This section becomes effective June 30, 2007.

PART VII. RETIRED TEACHERS RETURN TO WORK

SECTION 7.(a) Subsection (d) of Section 28.24 of S.L. 1998-212, as rewritten by Section 28.10 of S.L. 2002-126, subsection (a) of Section 31.18A of S.L. 2004-124, and Section 7A.1 of S.L. 2005-144, reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(b) The introductory language of Section 67 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (b) of Section 31.18A of S.L. 2004-124, and Section 7A.2 of S.L. 2005-144, reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through ~~June 30, 2007,~~ August 1, 2007, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

SECTION 7.(c) Subsection (b) of Section 67.1 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (c) of Section 31.18A of S.L. 2004-124, and Section 7A.3 of S.L. 2005-144, reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(d) Subsection (c) of Section 32.25 of S.L. 2001-424, as rewritten by Section 28.10 of S.L. 2002-126, subsection (d) of Section 31.18A of S.L. 2004-124, and Section 7A.4 of S.L. 2005-144, reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(e) Section 57(c) of S.L. 2004-199, as amended by Section 29.28(d) of S.L. 2005-276, reads as rewritten:

"**SECTION 57.(c)** This section expires ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(f) Section 25 of S.L. 2006-226 reads as rewritten:

"**SECTION 25.(b)** This section becomes effective ~~June 30, 2007.~~ August 1, 2007."

SECTION 7.(g) Notwithstanding any other provision of law, effective July 1, 2007, each local school administrative unit shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit shall report monthly to the Retirement Systems Division on payments made pursuant to this section.

Notwithstanding any other provision of law, effective July 1, 2007, any portion of the payment made by a local school administrative unit to a reemployed

teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution rate, that exceeds the State-supported salary level for that position shall be paid from local funds.

SECTION 7.(h) If the Internal Revenue Service determines that the provisions of G.S. 135-3(8)c. relating to the computation of postretirement earnings of retired teachers jeopardize the status of the Teachers' and State Employees' Retirement System of North Carolina under the Internal Revenue Code, then the final two paragraphs of G.S. 135-3(8)c. are repealed.

SECTION 7.(i) This section is effective when it becomes law.

PART VIII. PUBLIC SCHOOLS

SECTION 8. Effective July 1, 2007, there is appropriated from the General Fund to the Department of Public Instruction the sum of one hundred sixty-two million four hundred thousand dollars ($162,400,000) for the 2007-2008 fiscal year to fully fund increases in average daily membership in public schools, subject to adjustment by the General Assembly.

PART IX. EXTEND SUNSET ON ADDITIONAL ONE-QUARTER CENT STATE SALES AND USE TAX RATE

SECTION 9.(a) Section 24.1(j) of S.L. 2006-66 reads as rewritten:

"**SECTION 24.1.(j)** Subsection (b) of this section becomes effective December 1, 2006, and applies to sales made on or after that date. Subsections (d), (f), and (h) of this section become effective January 1, 2007, and apply to taxes collected on or after that date. Subsection (c) of this section becomes effective ~~July 1, 2007,~~ August 1, 2007, and applies to sales made on or after that date. Subsections (e), (g), and (i) of this section become effective ~~July 1, 2007,~~ August 1, 2007, and apply to taxes collected on or after that date. The remainder of this section is effective when it becomes law."

SECTION 9.(b) A retailer is not liable for an over-collection or under-collection of sales tax if the retailer has made a good faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this section in the rate of tax imposed under G.S. 105-164.4(a), over-collected or under-collected the amount of sales tax that is due. This subsection applies only to the period beginning July 1, 2007, and ending August 1, 2007.

PART X. DELAY EFFECTIVE DATE OF CHANGES TO MEDICAID ESTATE RECOVERY PLAN

SECTION 10. Section 10.21C(c) of S.L. 2005-276, as amended by Section 16 of S.L. 2005-345, and as further amended by Section 10.9B of S.L. 2006-66, reads as rewritten:

"**SECTION 10.21C.(c)** This section becomes effective ~~July 1, 2007,~~ August 1, 2007, and applies to recipients of medical assistance on ~~or~~ and after that date."

PART XI. EFFECTIVE DATE

SECTION 11. Section 10 of this act becomes effective June 30, 2007. Sections 1, 2, 3, and 4 of this act become effective July 1, 2007, and expire at 11:59 P.M. on July 31, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 2:12 p.m. on the 29th day of June, 2007.

Session Law 2007-146 **House Bill 1492**

AN ACT AUTHORIZING THE LICENSURE OF ANESTHESIOLOGIST ASSISTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-11 is amended by adding a new subsection to read:

"(a1) Every applicant for licensure as an anesthesiologist assistant in the State shall meet the following criteria:

(1) Satisfy the North Carolina Medical Board that the applicant is of good moral character.

(2) Submit to the Board proof of completion of a graduate level training program accredited by the Commission of Accreditation of Allied Health Education Programs or its successor organization.

(3) Submit to the Board proof of current certification from the National Commission of Certification of Anesthesiologist Assistants (NCCAA) or its successor organization, including passage of a certification examination administered by the NCCAA. The applicant shall take the certification exam within 12 months after completing training.

(4) Meet any additional qualifications for licensure pursuant to rules adopted by the Board."

SECTION 2. G.S. 90-15 reads as rewritten:

"§ **90-15. License fee; salaries, fees, and expenses of Board.**

Each applicant for a license by examination shall pay to the North Carolina Medical Board a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars ($400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars ($250.00). Whenever a limited license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty dollars ($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of twenty-five dollars ($25.00), and where a limited license to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.

For the initial and annual ~~registration~~ licensure of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount.

For the initial and annual licensure of an anesthesiologist assistant, the Board may require the payment of a fee not to exceed one hundred fifty dollars ($150.00)."

SECTION 3. G.S. 90-18(c) is amended by adding a new subdivision to read:

"(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

…

(20) The provision of anesthesia services by a licensed anesthesiologist assistant under the supervision of an anesthesiologist licensed under Article 1 of this Chapter in accordance with rules adopted by the Board."

SECTION 4. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-18.5. Limitations on anesthesiologist assistants.**

(a) Any person who is licensed to provide anesthesia services as an assistant to an anesthesiologist licensed under Article 1 of this Chapter may use the title 'anesthesiologist assistant.' Any other person who uses the title in any form or holds himself or herself out to be an anesthesiologist assistant or to be so licensed without first obtaining a license shall be deemed in violation of this Article. A student in any anesthesiologist assistant training program shall be identified as a 'student anesthesiologist assistant' or an 'anesthesiologist assistant student,' but under no circumstances shall the student use or permit to be used on the student's behalf the terms 'intern,' 'resident,' or 'fellow.'

(b) Anesthesiologist assistants are authorized to provide anesthesia services under the supervision of an anesthesiologist licensed under Article 1 of this Chapter under the following conditions:

(1) The North Carolina Medical Board has adopted rules governing the provision of anesthesia services by an anesthesiologist assistant consistent with the requirements of subsection (c) of this section.

(2) The anesthesiologist assistant holds a current license issued by the Board or is a student anesthesiologist assistant participating in a training program leading to certification by the National Commission for Certification of Anesthesiologist Assistants and licensure as an anesthesiologist assistant under G.S. 90-11(a1).

(c) The North Carolina Medical Board shall adopt rules to implement this section that include requirements and limitations on the provision of anesthesia services by an anesthesiologist assistant as determined by the Board to be in the best interests of patient health and safety. Rules adopted by the Board pursuant to this section shall include the following requirements:

(1) That an anesthesiologist assistant be supervised by an anesthesiologist licensed under this Article who is actively engaged in clinical practice and immediately available on-site to provide assistance to the anesthesiologist assistant.

(2) That an anesthesiologist may supervise no more than two anesthesiologist assistants or student anesthesiologist assistants at one time. The limitation on the number of anesthesiologist assistants and student anesthesiologist assistants that an anesthesiologist may supervise in no way restricts the number of other qualified anesthesia

providers an anesthesiologist may concurrently supervise. After January 1, 2010, the Board may allow an anesthesiologist to supervise up to four licensed anesthesiologist assistants concurrently and may revise the supervision limitations of student anesthesiologist assistants such that the supervision requirements for student anesthesiologist assistants are similar to the supervision requirements for student nurse anesthetists.

(3) That anesthesiologist assistants comply with all continuing education requirements and recertification requirements of the National Commission for Certification of Anesthesiologist Assistants or its successor organization.

(d) Nothing in this section shall limit or expand the scope of practice of physician assistants under existing law."

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 2:14 p.m. on the 29th day of June, 2007.

Session Law 2007-147 **House Bill 1340**

AN ACT TO RECOGNIZE THE VALUE OF AMATEUR RADIO COMMUNICATIONS BY REQUIRING CITY AND COUNTY ORDINANCES REGULATING ANTENNAS TO REASONABLY ACCOMMODATE AMATEUR RADIO COMMUNICATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-383.3. Reasonable accommodation of amateur radio antennas.**

A city ordinance based on health, safety, or aesthetic considerations that regulates the placement, screening, or height of the antennas or support structures of amateur radio operators must reasonably accommodate amateur radio communications and must represent the minimum practicable regulation necessary to accomplish the purpose of the city. A city may not restrict antennas or antenna support structures of amateur radio operators to heights of 90 feet or lower unless the restriction is necessary to achieve a clearly defined health, safety, or aesthetic objective of the city."

SECTION 2. Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-341.2. Reasonable accommodation of amateur radio antennas.**

A county ordinance based on health, safety, or aesthetic considerations that regulates the placement, screening, or height of the antennas or support structures of amateur radio operators must reasonably accommodate amateur radio communications and must represent the minimum practicable regulation necessary to accomplish the purpose of the county. A county may not restrict antennas or antenna support structures of amateur radio operators to heights of 90 feet or lower unless the restriction is necessary to achieve a clearly defined health, safety, or aesthetic objective of the county."

SECTION 3. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law upon approval of the Governor at 2:16 p.m. on the 29th day of June, 2007.

Session Law 2007-148 **Senate Bill 376**

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO ACQUIRE PROPERTY, CONDUCT EVIDENCE HEARINGS BY PANELS, SERVE SUBPOENAS ISSUED BY THE BOARD, AND ESTABLISH STANDARDS FOR APPLICANT REQUIREMENTS FOR MEDICATION AIDE TRAINING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-171.23(b) is amended by adding the following new subdivisions:

"(b) Duties, powers. The Board is empowered to:

…

(21) Proceed in accordance with G.S. 90-171.37A, notwithstanding G.S. 150B-40(b), when conducting a contested case hearing in accordance with Article 3A of Chapter 150B of the General Statutes.

(22) Designate one or more of its employees to serve papers or subpoenas issued by the Board. Service under this subdivision is permitted in addition to any other methods of service permitted by law.

(23) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

SECTION 2. Article 9A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-171.37A. Use of hearing committee and depositions.**

(a) The Board, in its discretion, may designate in writing three or more of its members to conduct hearings as a hearing committee to take evidence. A majority of the hearing committee shall be licensed nurses.

(b) Evidence and testimony may be presented at hearings before the Board or a hearing committee in the form of depositions before any person authorized to administer oaths in accordance with the procedure for the taking of depositions in civil actions in the superior court.

(c) The hearing committee shall submit a recommended decision that contains findings of fact and conclusions of law to the Board. Before the Board makes a final decision, it shall give each party an opportunity to file written exceptions to the recommended decision made by the hearing committee and to present oral arguments to the Board. A majority of the qualified members present and voting of the full Board shall issue a final decision."

SECTION 3. G.S. 90-171.56(1) reads as rewritten:

"(1) Establish standards for faculty and applicant requirements for medication aide ~~training; and~~training."

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

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 2:17 p.m. on the 29th day of June, 2007.

Session Law 2007-149 **Senate Bill 834**

AN ACT TO CLARIFY THE DIVISION OF SERVICES FOR THE DEAF AND HARD OF HEARING COMMUNICATION SERVICES PROGRAM AND TO UPDATE THE LANGUAGE IN THE STATUTE TO CONFORM TO THE TERMINOLOGY USED IN THE AMERICANS WITH DISABILITIES ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-216.34 reads as rewritten:

"§ **143B-216.34. Division of Services for the Deaf and the Hard of Hearing – ~~communication services~~temporary loan program established.**

(a) There is established ~~a communications services~~ an assistive equipment loan program for the deaf, hard of hearing, and speech impaired to be developed, administered, and implemented by the Division of Services for the Deaf and the Hard of Hearing. The assistive equipment loan program supplements the telecommunications equipment distribution program established pursuant to G.S. 62-157.

(b) The Division shall develop rules ~~to implement a schedule for the purchase and distribution of the telecommunications devices and~~ for the distribution of the communications and alerting equipment ~~necessary to implement the communications services program.~~and shall determine performance standards. ~~The Division shall establish by rule performance standards for TDDs, ring signaling devices, and volume control handsets.~~ The Division shall select equipment ~~to be purchased~~ for distribution to qualifying recipients. The equipment discussed in this section shall be ~~subleased~~ leased at no cost to qualifying recipients for a period of time ~~not exceeding five years.~~up to and not exceeding two years. Nothing herein shall be construed to prevent the renewal of any lease previously executed with a qualified recipient. In addition, the Division shall provide consultative services and training to those individuals and organizations utilizing communications and alerting equipment pursuant to this section.

(c) The central communications office of each county sheriff's department shall purchase and continually operate at least one ~~TDD.~~telecommunications device that is functionally equivalent in providing equal access to services for individuals who are deaf, hard of hearing, deaf-blind, and speech impaired.

The central communications office of each police department and firefighting agency in municipalities with a population of 25,000 to 250,000 shall purchase and continually operate at least one ~~TDD.~~such device.

The central communications office of each police department and firefighting agency in municipalities with a population exceeding 250,000 persons shall purchase and continually operate at least two ~~TDDs.~~such devices.

~~At least one hospital in each county shall purchase and continually operate at least one TDD.~~

~~Each 911 emergency number system and each agency receiving automatically routed calls through a 911 emergency system shall purchase and continually operate at least one TDD.~~

(d) ~~Each public safety office, health care provider, and 911 emergency number system required to obtain a TDD pursuant to this section shall continually operate and staff such equipment on a 24-hour basis as follows:~~

~~(1) Offices and organizations required to purchase TDDs pursuant to this section may buy such equipment from the Division, or from private vendors who can supply devices identical to or compatible with those selected by the Division at a lower price than the Division offers.~~

~~(2) The purchase price imposed on such offices and organizations by the Division shall not exceed the actual per unit cost including shipping and storage charges."~~

Each public safety office, health care facility (including hospitals and urgent care facilities), and the 911 emergency number system is required to obtain a telecommunications device that is functionally equivalent in providing equal access to services for individuals who are deaf, hard of hearing, and speech impaired pursuant to this section and shall continually operate and staff the equipment during hours of operation, including up to 24 hours."

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

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 2:18 p.m. on the 29th day of June, 2007.

Session Law 2007-150 **House Bill 645**

AN ACT CONTINUING THE STATE HISTORICAL RECORDS ADVISORY BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-5.1. State Historical Records Advisory Board.**

(a) The State Historical Records Advisory Board, which was constituted in 1975 in accordance with 44 U.S.C. § 2501; 36 C.F.R. § 1206 is continued under State law and shall be located administratively in the Department of Cultural Resources. The Board shall consist of 10 members. Eight members shall be appointed by the Governor for three-year staggered terms, and each member shall have experience in the administration and use of historical records. All current members shall continue to serve until the expiration of their term unless a member is removed or the position becomes vacant, in which case the vacancy shall be filled in accordance with subsection (c) of this section. The Deputy Secretary of the Office of Archives and History and the State Archivist shall both serve as ex officio members of the Board.

(b) The Board's primary duty shall be to serve as the central advisory body for historical records coordination within the State and for the National Historical Publications and Records Commission (NHPRC). In addition, subject to the availability of funds, the Board shall:

(1) Offer assistance, advice, and consultation to State, county, and municipal governments, historic sites, museums, historical societies, and other institutions holding records of historical value concerning the care, preservation, and management of their records.

(2) Solicit, review, and assess grant proposals in connection with NHPRC grants or grants from other sources.

(3) Offer educational programs and conferences.

(4) Conduct statewide studies and surveys of the State's historical records.

(c) The Governor may remove any member for good cause shown. The Governor shall fill any vacancy on the Board. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been appointed and qualified.

(d) Members of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 138-5 and G.S. 138-6, as appropriate.

(e) The Governor shall appoint either the Deputy Secretary of the Office of Archives and History or the State Archivist as the State coordinator as required by NHPRC regulations. The State coordinator shall serve a four-year term and may be reappointed. The State coordinator may designate a deputy State coordinator from the Board's membership.

(f) The Board shall hold at least two meetings each year to conduct business. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of the members of the Board constitutes a quorum for the transaction of business."

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

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 2:19 p.m. on the 29th day of June, 2007.

Session Law 2007-151 **House Bill 865**

AN ACT TO REMOVE BARRIERS TO ADOPTION FOR RESIDENTS OF OTHER STATES SEEKING TO ADOPT CHILDREN IN NORTH CAROLINA UNDER THE LAWS PERTAINING TO TERMINATION OF PARENTAL RIGHTS AND ADOPTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1111(a) is amended by adding a new subdivision to read:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

…

(10) Where the juvenile has been relinquished to a county department of social services or a licensed child-placing agency for the purpose of adoption or placed with a prospective adoptive parent for adoption; the consent or relinquishment to adoption by the parent has become irrevocable except upon a showing of fraud, duress, or other circumstance as set forth in G.S. 48-3-609 or G.S. 48-3-707; termination of parental rights is a condition precedent to adoption in the jurisdiction where the adoption preceding is to be filed; and the parent does not contest the termination of parental rights."

SECTION 2. G.S. 48-2-100 reads as rewritten:

"§ **48-2-100. Jurisdiction.**

(a) Adoption shall be by a special proceeding before the clerk of superior court.

(b) Except as provided in subsection (c) of this section, jurisdiction over adoption proceedings commenced under this Chapter exists if, at the commencement of the proceeding:

(1) The adoptee has lived in this State for at least the six consecutive months immediately preceding the filing of the petition or from ~~birth, and the prospective adoptive parent is domiciled in this State; or~~birth;

(2) The prospective adoptive parent has lived in or been domiciled in this State for at least the six consecutive months immediately preceding the filing of the ~~petition.~~petition; or

(3) An agency licensed by this State or a county department of social services in this State has legal custody of the adoptee.

(c) The courts of this State shall not exercise jurisdiction under this Chapter if at the time the petition for adoption is filed, a court of any other state is exercising jurisdiction substantially in conformity with the Uniform Child-Custody Jurisdiction and Enforcement Act, Article 2 of Chapter 50A of the General Statutes. However, this subsection shall not apply if within 60 days after the date the petition for adoption is filed, the court of the other state dismisses its proceeding or releases its exclusive, continuing jurisdiction."

SECTION 3. This act becomes effective October 1, 2007, and applies to motions in the cause or petitions filed on or after that date.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 2:19 p.m. on the 29th day of June, 2007.

Session Law 2007-152 **House Bill 866**

AN ACT TO EXPAND THE REACH OF NORTH CAROLINA COURTS IN PROCEEDINGS TO TERMINATE THE PARENTAL RIGHTS OF NONRESIDENT PARENTS OF RESIDENT CHILDREN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1101 reads as rewritten:

"§ **7B-1101. Jurisdiction.**

The court shall have exclusive original jurisdiction to hear and determine any petition or motion relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition or motion. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. Provided, that before exercising jurisdiction under this Article, the court shall find that it has jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201, 50A-203, or 50A-204. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the state of residence of the parent. Provided, that before exercising jurisdiction under this Article regarding the parental rights of a nonresident parent, the court shall find that it has jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201 or G.S. 50A-203, without regard to G.S. 50A-204 and that process was served on the nonresident parent pursuant to G.S. 7B-1106. Provided,

further, that the clerk of superior court shall have jurisdiction for adoptions under Chapter 48 of the General Statutes."

SECTION 2. This act becomes effective October 1, 2007, and applies to motions in the cause or petitions filed on or after that date.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

Became law upon approval of the Governor at 2:20 p.m. on the 29th day of June, 2007.

Session Law 2007-153 **Senate Bill 1472**

AN ACT TO AMEND THE DISTRIBUTION OF THE PROCEEDS OF THE SCRAP TIRE DISPOSAL TAX TO INCREASE FUNDS ALLOCATED TO COUNTIES FOR THE DISPOSAL OF SCRAP TIRES, TO INCREASE FUNDS ALLOCATED TO THE SOLID WASTE MANAGEMENT TRUST FUND, AND TO DECREASE FUNDS ALLOCATED TO THE SCRAP TIRE DISPOSAL ACCOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-187.19 reads as rewritten:

"§ **105-187.19. Use of tax proceeds.**

(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department.

(b) Each quarter, the Secretary shall credit ~~five percent (5%)~~ eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit ~~twenty-seven percent (27%)~~twenty-two percent (22%) of the net tax proceeds to the Scrap Tire Disposal Account. The Secretary shall distribute the remaining ~~sixty-eight percent (68%)~~seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.

(c) A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54. A county that receives funds under this section and that has an agreement with another unit of local government under which the other unit of local government provides for the disposal of solid waste for the county shall transfer the amount received under this section to the other unit of local government. A unit of local government to which funds are transferred is subject to the same restrictions on use of the funds as the county."

SECTION 2. This act becomes effective 1 July 2007.

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 2:22 p.m. on the 29th day of June, 2007.

Session Law 2007-154 **House Bill 915**

AN ACT ENCOURAGING THE PUBLIC SCHOOLS, THE COMMUNITY COLLEGE SYSTEM, AND THE UNIVERSITY OF NORTH CAROLINA TO

OFFER AMERICAN SIGN LANGUAGE FOR CREDIT AS A MODERN FOREIGN LANGUAGE.

Whereas, American Sign Language is a fully developed, autonomous, natural language with a unique grammar, syntax, vocabulary, and cultural heritage; and

Whereas, the gestures, visual components, and structures of American Sign Language are neither derived from English nor a simplified version of English; and

Whereas, American Sign Language is the predominant language most commonly used by the deaf community in the United States; and

Whereas, there is increasing acceptance of American Sign Language as a foreign language taught in the public schools in the United States; and

Whereas, 33 states currently have legislation recognizing American Sign Language as a foreign language; and

Whereas, there is an increased acceptance of American Sign Language as a foreign language among foreign language faculty at colleges and universities; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ **115C-81.3. Instruction in American Sign Language.**

(a) The State Board of Education shall encourage schools to offer American Sign Language classes in high schools as a modern foreign language.

(b) The State Board of Education shall adopt and implement standards for the certification of teachers of American Sign Language and shall set standards for teacher preparation programs that prepare students for certification as American Sign Language teachers."

SECTION 1.(b) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by October 1, 2007, on the implementation of this section.

SECTION 2.(a) Chapter 115D-5 of the General Statutes is amended by adding a new subsection to read:

"(r) The State Board of Community Colleges shall develop curriculum and continuing education standards for courses of instruction in American Sign Language and shall encourage community colleges to offer courses in American Sign Language as a modern foreign language."

SECTION 2.(b) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by October 1, 2007, on the implementation of this section.

SECTION 3.(a) G.S. 116-11 is amended by adding a new subdivision to read:

"§ **116-11. Powers and duties generally.**

The powers and duties of the Board of Governors shall include the following:

...

(4b) The Board of Governors shall encourage the constituent institutions to offer courses in American Sign Language as a modern foreign language."

SECTION 3.(b) The Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee by October 1, 2007, on the implementation of this section.

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

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 2:22 p.m. on the 29th day of June, 2007.

Session Law 2007-155 **Senate Bill 878**

AN ACT MAKING EMPLOYEES AND PROSPECTIVE EMPLOYEES OF THE OFFICE OF INFORMATION TECHNOLOGY SERVICES SUBJECT TO BACKGROUND INVESTIGATIONS; EXEMPTING FROM THE PUBLIC RECORDS LAWS THE CRIMINAL HISTORIES OF AGENCY SECURITY LIAISONS AND PERSONNEL IN THE OFFICE OF STATE AUDITOR, AND MAKING CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.77 is amended by adding a new subsection to read:

"(g) The State Chief Information Officer may require background investigations of any employee or prospective employee, including a criminal history record check, which may include a search of the State and National Repositories of Criminal Histories based on the person's fingerprints. A criminal history record check shall be conducted by the State Bureau of Investigation upon receiving fingerprints and other information provided by the employee or prospective employee. If the employee or prospective employee has been a resident of the State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State Chief Information Officer and is not a public record under Chapter 132 of the General Statutes."

SECTION 2. G.S. 147-33.113(a)(4) reads as rewritten:

"(4) Designating an agency liaison in the information technology area to coordinate with the State Chief Information Officer. The liaison shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon its receiving fingerprints from the liaison. If the liaison has been a resident of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State Chief Information Officer and the head of the agency. In addition, all personnel in the Office of State Auditor who are responsible for information technology security reviews pursuant to G.S. 147-64.6(c)(18) shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon receiving fingerprints from the personnel designated by the State Auditor. For

designated personnel who have been residents of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background reports shall be provided to the State Auditor. Criminal histories provided pursuant to this subdivision are not public records under Chapter 132 of the General Statutes."

SECTION 3. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.20. Criminal record checks for the Office of Information Technology Services.**

(a) The Department of Justice may provide to the Office of Information Technology Services from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Office of Information Technology Services. The Office of Information Technology Services shall provide to the Department of Justice, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Office of Information Technology Services shall keep all information obtained pursuant to this section confidential.

(b) The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

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

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 2:24 p.m. on the 29th day of June, 2007.

Session Law 2007-156 **Senate Bill 164**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY RULES AND REGULATIONS REGARDING HOUSING INDIVIDUALS WITH MENTAL ILLNESS IN THE SAME FACILITY VICINITY AS INDIVIDUALS WITHOUT MENTAL ILLNESS, AND TO RECOMMEND STAFF TRAINING REQUIREMENTS FOR DIRECT CARE WORKERS IN ADULT CARE HOMES TO PROVIDE APPROPRIATE CARE TO RESIDENTS WITH MENTAL ILLNESS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services, Division of Facility Services, Division of Aging and Adult Services, and Division of Mental Health,

Developmental Disabilities, and Substance Abuse Services, shall study rules and regulations in North Carolina and other states regarding the provision of appropriate care and housing of individuals with mental illness in the same facility vicinity with individuals without mental illness and shall make recommendations relating to the housing of these individuals.

SECTION 1.(b) The Department of Health and Human Services, Division of Facility Services, Division of Aging and Adult Services, and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall study the need for training direct care workers in adult care homes to provide appropriate care to facility residents with mental illness and facility residents without mental illness and shall make recommendations for appropriate training of these workers. The study shall address the fiscal impact that the implementation of training requirements would have on these facilities and the amount of funding needed to support a successful training model.

SECTION 1.(c) The Department of Health and Human Services shall present its findings and recommendations in response to the studies authorized in subsections (a) and (b) of this section, along with any required statutory or rule changes, to the Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2008.

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

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 2:26 p.m. on the 29th day of June, 2007.

Session Law 2007-157 **Senate Bill 680**

AN ACT TO STREAMLINE REGULATION OF TELECOMMUNICATIONS PROMOTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-133.5 reads as rewritten:

"§ **62-133.5. Alternative regulation, tariffing, and deregulation of telecommunications utilities.**

…

(f) Notwithstanding the provisions of G.S. 62-140, or any Commission rule or ~~regulation,~~regulations: (i) the Commission shall permit a local exchange company or a competing local provider to offer competitive services with flexible pricing arrangements to business customers pursuant to contract and shall permit other flexible pricing ~~options. Local~~options; and (ii) local exchange companies and competing local providers may provide a promotional offering for any tariffed service or tariffed offering by giving one day's notice to the Commission, but no Commission approval of the notice is required. Promotional offerings of any nontariffed service may be implemented without notice to the Commission or Commission approval. Carriers offering promotions of regulated services that are available for resale must provide a means for interested parties to receive notice of each promotional offering of regulated service, including the duration of the offering, at least one business day prior to the effective date of the promotional offering.~~shall be required to give the Commission one~~

~~business day's notice but need not seek Commission approval for any promotion or bundled service offering for residence or business customers involving both regulated and nonregulated services that feature price discounts that apply exclusively to services not regulated by the Commission.~~ Furthermore, local exchange companies and competing local providers may offer special promotions and bundles of new or existing service or products without the obligation to identify or convert existing customers who subscribe to the same or similar services or products. The Commission's complaint authority under G.S. 62-73 and subsection (e) of this section is applicable to any promotion or bundled service offering filed or offered under this subsection.

…."

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

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 2:27 p.m. on the 29th day of June, 2007.

Session Law 2007-158 **Senate Bill 579**

AN ACT AUTHORIZING THE CITY OF CHARLOTTE TO RECEIVE BIDS ELECTRONICALLY IN ADDITION TO OR INSTEAD OF PAPER BIDS ON PUBLIC CONSTRUCTION PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-129.9 reads as rewritten:

"§ **143-129.9. Alternative competitive bidding methods.**

(a) A political subdivision of the State may use any of the following methods to obtain competitive bids <u>for construction or repair work or</u> for the purchase of apparatus, supplies, materials, or equipment as an alternative to the otherwise applicable requirements in this Article:

(1) Reverse auction. – For purposes of this section, "reverse auction" means a real-time purchasing process in which bidders compete to provide goods at the lowest selling price in an open and interactive environment. The bidders' prices may be revealed during the reverse auction. A reverse auction may be conducted by the political subdivision or by a third party under contract with the political subdivision. A political subdivision may also conduct a reverse auction through the State electronic procurement system, and compliance with the procedures and requirements of the State's reverse auction process satisfies the political subdivision's obligations under this Article.

(2) Electronic bidding. – A political subdivision may receive bids electronically in addition to or instead of paper bids. Procedures for receipt of electronic bids for contracts that are subject to the requirements of G.S. 143-129 shall be designed to ensure the security, authenticity, and confidentiality of the bids to at least the same extent as is provided for with sealed paper bids.

(b) The requirements for advertisement of bidding opportunities, timeliness of the receipt of bids, the standard for the award of contracts, and all other requirements in this Article that are not inconsistent with the methods authorized in this section shall apply to contracts awarded under this section.

(c) Reverse auctions shall not be utilized for construction or repair work or for the purchase or acquisition of construction aggregates, including, but not limited to, crushed stone, sand, and gravel."

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

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

In the General Assembly read three times and ratified this the 2nd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-159 **House Bill 564**

AN ACT TO ALLOW THE BRUNSWICK COUNTY AND SUNSET BEACH ALCOHOLIC BEVERAGE CONTROL SYSTEMS TO RELOCATE CERTAIN STORES IN SUPPLY AND SUNSET BEACH WITHIN SEVEN MILES OF A MUNICIPALITY WITH EXISTING ABC STORES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of S.L. 1991-372, as amended by S.L. 1991-776, as amended by Section 3 of S.L. 2005-305, the Brunswick County Alcoholic Beverage Control Board may close and relocate its current Alcoholic Beverage Control store located at 2567 Holden Beach Road SW in Supply to a new location within one mile of the current location. The Sunset Beach Alcoholic Beverage Control Board may close and relocate its current Alcoholic Beverage Control store located at 303 Sunset Drive in Sunset Beach to a new location no more than two miles from its present location. The Brunswick County Alcoholic Beverage Control Board and the Sunset Beach Alcoholic Beverage Control Board shall comply with the requirements of Chapter 18B of the General Statutes and shall receive approval from the North Carolina Alcoholic Beverage Control Commission.

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

In the General Assembly read three times and ratified this the 2nd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-160 **Senate Bill 382**

AN ACT TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF SUNSET BEACH AND TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF DALLAS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The following described property is added to the corporate limits of the Town of Sunset Beach:

Beginning at a point in the north right-of-way of Georgetown Road located North 79 degrees 32 minutes 53 seconds West a distance of 95.27 feet from the center line intersection of Seaside Road (NC 904) and Georgetown Road (SR1163), thence with the northern R/W of Georgetown Road South 81 degrees 56 minutes 12 seconds West for a distance of 1,024.11 feet to a point, thence South 82 degrees 08 minutes 23 seconds West for a distance of 139.29 feet to a point, thence South 81 degrees 09

minutes 00 seconds West for a distance of 159.73 feet, thence South 80 degrees 10 minutes 31 seconds West for a distance of 159.00 feet to a point, thence South 78 degrees 09 minutes 42 seconds West for a distance of 157.68 feet to a point, thence South 76 degrees 24 minutes 45 seconds West for a distance of 157.94 feet to a point, thence South 74 degrees 26 minutes 42 seconds West for a distance of 2,453.76 feet to a point, thence South 75 degrees 28 minutes 13 seconds West for a distance of 156.58 feet to a point, thence South 78 degrees 43 minutes 11 seconds West for a distance of 155.90 feet to a point, thence South 82 degrees 47 minutes 55 seconds West for a distance of 79.57 feet to a point, thence South 86 degrees 29 minutes 57 seconds West for a distance of 157.42 feet to a point, thence North 89 degrees 33 minutes 53 seconds West for a distance of 157.75 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 99.91 feet to a point, thence North 87 degrees 21 minutes 00 seconds West for a distance of 57.62 feet to a point, thence North 86 degrees 58 minutes 35 seconds West for a distance of 1,661.70 feet to a point, thence North 87 degrees 54 minutes 16 seconds West for a distance of 108.52 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 67.24 feet to a point, thence North 88 degrees 40 minutes 07 seconds West for a distance of 34.74 feet to a point, thence North 89 degrees 56 minutes 20 seconds West for a distance of 108.75 feet to a point, thence South 87 degrees 10 minutes 26 seconds West for a distance of 104.83 feet to a point, thence South 84 degrees 13 minutes 54 seconds West for a distance of 104.22 feet to a point, thence South 81 degrees 54 minutes 06 seconds West for a distance of 703.32 feet to a point, thence South 78 degrees 01 minutes 09 seconds West for a distance of 160.86 feet to a point, thence South 75 degrees 17 minutes 01 seconds West for a distance of 117.18 feet to a point, thence leaving said R/W, with Williamson North 03 degrees 50 minutes 58 seconds East for a distance of 738.01 feet to a point, North 25 degrees 45 minutes 58 seconds East for a distance of 379.29 feet to a point, thence South 80 degrees 26 minutes 00 seconds East for a distance of 332.90 feet to a point, thence North 46 degrees 22 minutes 35 seconds East for a distance of 445.80 feet to a point, thence North 20 degrees 01 minutes 05 seconds East for a distance of 119.23 feet to a point, thence North 02 degrees 44 minutes 00 seconds East for a distance of 231.08 feet to a point, thence North 20 degrees 13 minutes 54 seconds West for a distance of 858.54 feet to a point, thence North 40 degrees 56 minutes 31 seconds West for a distance of 754.87 feet to a point, thence North 69 degrees 23 minutes 17 seconds West for a distance of 383.85 feet to a point, thence North 59 degrees 08 minutes 03 seconds West for a distance of 506.14 feet to a point, thence South 82 degrees 02 minutes 41 seconds West for a distance of 392.44 feet to a point, thence North 00 degrees 47 minutes 36 seconds East for a distance of 289.29 feet to a point, thence North 32 degrees 44 minutes 13 seconds West for a distance of 567.68 feet to a point, thence North 14 degrees 46 minutes 26 seconds East for a distance of 527.71 feet to a point, thence North 13 degrees 23 minutes 20 seconds West for a distance of 552.27 feet to a point, thence leaving Williamson and with Gore North 48 degrees 36 minutes 29 seconds East for a distance of 522.27 feet to a point, thence South 81 degrees 15 minutes 47 seconds East for a distance of 1,917.49 feet to a point, thence North 33 degrees 44 minutes 54 seconds East for a distance of 987.09 feet to a point, thence South 18 degrees 09 minutes 22 seconds East for a distance of 656.05 feet to a point, thence North 78 degrees 50 minutes 37 seconds East for a distance of 544.98 feet to a point, thence North 42 degrees 45 minutes 00 seconds East for a distance of 428.97 feet to a point, thence South 46 degrees 38 minutes 41 seconds East for a distance of 387.97 feet to a point, thence South 17 degrees 01 minutes 51 seconds West for a distance of

875.25 feet to a point, thence South 18 degrees 38 minutes 02 seconds East for a distance of 1,154.75 feet to a point, thence South 46 degrees 45 minutes 07 seconds East for a distance of 1,261.28 feet to a point, thence South 44 degrees 09 minutes 11 seconds West for a distance of 550.01 feet to a point, thence South 39 degrees 27 minutes 18 seconds East for a distance of 1,023.06 feet to a point, thence South 57 degrees 26 minutes 17 seconds East for a distance of 981.14 feet to a point, thence South 80 degrees 10 minutes 49 seconds East for a distance of 1,103.46 feet to a point, thence North 72 degrees 10 minutes 18 seconds East for a distance of 560.50 feet to a point, thence North 22 degrees 54 minutes 21 seconds East for a distance of 718.74 feet to a point, thence North 09 degrees 49 minutes 10 seconds West for a distance of 674.30 feet to a point, thence North 28 degrees 34 minutes 02 seconds East for a distance of 409.31 feet to a point, thence North 17 degrees 07 minutes 01 seconds West for a distance of 304.01 feet to a point, thence North 34 degrees 02 minutes 59 seconds East for a distance of 168.11 feet to a point in western R/W of Seaside Rd., thence with R/W South 31 degrees 17 minutes 20 seconds East for a distance of 553.49 feet to a point, thence South 32 degrees 32 minutes 57 seconds East for a distance of 669.63 feet to a point, thence South 32 degrees 14 minutes 51 seconds East for a distance of 940.15 feet to a point, thence South 31 degrees 35 minutes 35 seconds East for a distance of 102.55 feet to a point, thence South 28 degrees 17 minutes 50 seconds East for a distance of 135.97 feet to a point, thence South 25 degrees 33 minutes 45 seconds West for a distance of 59.96 feet to the place and point of beginning, containing 529.72 acres, more or less.

This description is based on maps of record and is for annexation purposes only.

SECTION 1.(b) This section applies to the Town of Sunset Beach only.

SECTION 2.(a) The following described property is added to the corporate limits of the Town of Dallas:

Beginning at an existing iron pin located along the west margin right-of-way of US Hwy #321, a controlled access highway, said iron being located South 19 degrees 21 minutes 24 seconds East a distance of 1.56 feet from a right-of-way monument, adjoining the lands of Pilkington, deed book 1488 pg. 420, said iron also being located North 19 degrees 21 minutes 24 seconds West a distance of 733.88 feet from a right-of-way monument, adjoining the lands of McClure, deed book 566 pg. 431 and deed book 524 pg. 327; thence running along the right-of-way of US Hwy #321 South 19 degrees 21 minutes 24 seconds East a distance of 496.21 feet to an existing iron pin; thence leaving the right-of-way of US Hwy #321 and running, adjoining the lands of McClure South 34 degrees 04 minutes 07 seconds West a distance of 536.61 feet to an existing iron pin; thence continuing South 31 degrees 09 minutes 23 seconds West a distance of 231.06 feet to a pine tree; Thence continuing North 56 degrees 25 minutes 44 seconds West a distance of 991.70 feet to an existing iron pin; thence running, adjoining the lands of Hall, deed book 840 pg. 321, North 57 degrees 11 minutes 42 seconds West a distance of 250.76 feet to an existing iron pin; Thence running North 57 degrees 27 minutes 47 seconds West a distance of 303.35 feet to a new iron pin; Thence running North 58 degrees 35 minutes 26 seconds West a distance of 210.18 feet to an existing iron pin; Thence running, adjoining the lands of Gibson Machinery Company, North 56 degrees 43 minutes 51 seconds East a distance of 415.55 feet to an existing iron pin located along the right-of-way of Gibson Court, SR #1724; Thence continuing with the right-of-way, adjoining Gibson Machinery Company lands, along an arc to the left a length of 466.77 feet and having a radius of 495.05 feet to a point; Thence

continuing South 65 degrees 04 minutes 48 seconds West a distance of 231.85 feet to an existing iron pin; thence continuing South 64 degrees 14 minutes 23 seconds West a distance of 280.16 to an existing iron pin in the intersection of rights-of-way of SR #1724 and SR #3061, also known as Old US 321 and NC Hwy 155; Thence running with the right-of-way of SR #3061 North 30 degrees 29 minutes 27 seconds West a distance of 60.21 feet to an existing iron pin located along the right-of-way and adjoining the lands of Plainview Missionary Baptist Church, deed book 1432 pg. 12; Thence leaving the right-of-way and running, adjoining the church's lands, North 64 degrees 14 minutes 23 seconds East a distance of 285.13 feet to an existing iron pin; Thence continuing North 60 degrees 49 minutes 21 seconds West a distance of 20.80 feet to an existing iron pin, adjoining the lands of Spivey, deed book 2129 pg. 461; Thence running, adjoining Spivey's lands, North 09 degrees 57 minutes 33 seconds East a distance of 291.66 feet to an existing iron pin, adjoining the lands of Lutz's Heirs, deed book 574 pg. 38; Thence running, adjoining Lutz's land, North 28 degrees 22 minutes 44 seconds West a distance of 322.46 feet to an existing iron pin, adjoining the lands of Huffman, deed book 1618 pg. 763; Thence running, adjoining the lands of Huffman, McAbee, deed book 1472 pg. 848, B. Bradley, deed book 1895 pg. 915, and J. Bradley, deed book 2129 pg. 132, South 86 degrees 30 minutes 40 seconds East a distance of 797.01 feet to an existing iron pin; Thence running, adjoining Pilkington's lands, South 34 degrees 22 minutes 50 seconds East a distance of 308.80 feet to an existing iron pin; Thence continuing South 74 degrees 41 minutes 15 seconds East a distance of 1205.88 feet to an existing iron pin; Thence continuing South 79 degrees 55 minutes 50 seconds East a distance of 54.87 feet to the place and point of Beginning.

SECTION 2.(b) This section applies to the Town of Dallas only.

SECTION 3. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 3rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-161 **House Bill 942**

AN ACT AUTHORIZING THE TOWN OF OAK ISLAND TO LEVY SPECIAL ASSESSMENTS TO MEET THE COST OF THE LOCAL SHARE OF CONSTRUCTING BEACH NOURISHMENT PROJECTS PRIOR TO THE CONSTRUCTION OF THE PROJECTS.

Whereas, the Town of Oak Island has a need to construct beach nourishment projects for the health, safety, and welfare of the Oak Island community; and

Whereas, the Town does not have the funds on hand needed to build the beach nourishment projects; and

Whereas, the Town has determined that the only way to construct the projects in a proper and timely manner is to require that property owners meet their special assessment obligations prior to construction; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Town Council of the Town of Oak Island may levy special assessments to meet the estimated costs of beach nourishment projects at least 30 days following the initiation of the assessment process.

SECTION 2. The Town Council of the Town of Oak Island may give owners of assessed property the option of paying the assessment either in cash or in installments, but the period over which the installments are paid shall not exceed four years from the date the assessment roll is confirmed. Any portion of an assessment that is not paid within 30 days after publication of the notice that the assessment roll has been confirmed shall bear interest until paid at a rate to be fixed in the assessment resolution but not more than eight percent (8%) per annum.

SECTION 3. In the event the execution of a contract (or contracts) covering the proposed work is not forthcoming within four years from the date the assessment roll is confirmed, all assessments for the purpose of meeting the cost of constructing beach nourishment projects paid to the Town of Oak Island shall be returned to each payee within 30 days along with interest at a rate not less than six percent (6%) per annum for the period each assessment payment is held by the Town; however, interest shall be paid on no assessment funds for a period in excess of 90 days.

SECTION 4. All assessment funds received by the Town may be deposited in a special interest-bearing account, and any interest earned and retained by the Town shall be used to offset expenses incurred with regard to the proposed beach nourishment projects.

SECTION 5. In levying the special assessments, the Town Council shall follow, insofar as practicable, the procedures set forth in Article 10 of Chapter 160A of the General Statutes.

SECTION 6. When the construction of the beach nourishment projects is complete, the Town Council shall ascertain the total cost as provided in G.S. 160A-226. If the total cost is greater than the estimated cost, the Town Council may levy special assessments to collect the difference on the same basis as the first special assessments were made. The provisions of Section 2 of this act shall apply to the paying of special assessments levied under this section.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-162 **Senate Bill 930**

AN ACT TO REVISE THE LAW GRANTING AUTHORITY TO PRIVATE CORRECTIONAL OFFICERS EMPLOYED PURSUANT TO A CONTRACT WITH THE FEDERAL BUREAU OF PRISONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-37.3 reads as rewritten:

"§ **148-37.3. Authority of private correctional officers employed pursuant to a contract with the Federal Bureau of Prisons.**

(a) Correctional officers and security supervisors employed at private correctional facilities pursuant to a contract between their employer and the Federal Bureau of Prisons may, in the course of their employment as correctional officers or security supervisors, use necessary force and make arrests consistent with the laws applicable to the North Carolina Department of Correction, which force shall not exceed that authorized to Department of Correction officers, provided that ~~the Department of Correction determines that as of August 18, 2001,~~ the employment policies of such

private corporations meet the same minimum standards and practices followed by the Department of Correction in employing its correctional personnel, and if:

(1) Those correctional officers and security supervisors have been certified as correctional officers as provided under Chapter 17C of the General Statutes; or

(2) Those correctional officers and security supervisors employed by the private corporation at the facility have completed a training curriculum that ~~the Department of Correction has determined~~ meets or exceeds the standards required by the North Carolina Criminal Justice Education and Training Standards Commission for correctional personnel. ~~The Department may require that it be notified of the names and positions of such persons prior to such persons beginning duties at the correctional facility, and the names and positions of those persons already employed at the correctional facility on August 18, 2001 and that the Department be notified when any such person is no longer employed in such duties at the correctional facility.~~

(b) Any private corporation described in subsection (a) of this section shall without limit defend, indemnify, and hold harmless the State, its officers, employees, and agents from any claims arising out of the operation of the private correctional facility, or the granting of the powers authorized under this section, including any attorneys' fees or other legal costs incurred by the State, its officers, employees, or agents as a result of such claims.

(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is ~~located and shall notify the Department of Correction which~~ located, who shall cause an immediate entry into the State Bureau of Investigation Division of Criminal Information network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility.

(d) Any private corporation described in subsection (a) of this section must maintain in force liability insurance to satisfy any final judgment rendered against the private corporation or the State, its officers, employees, and agents that arises out of the operation of the correctional facility or the indemnification requirements in subsection (b) of this section. The minimum amount of liability insurance that will be required under this section is ten million dollars ($10,000,000) per occurrence, and twenty-five million dollars ($25,000,000) aggregate per occurrence. ~~The private corporation shall ensure that its insurance company shall provide the Department of Correction with a current Certificate of Insurance evidencing compliance with the requirements of this subsection within 10 days of August 18, 2001 and annually thereafter.~~

~~(e) The Department of Correction shall adopt rules to implement the provisions of this section.~~

(f) The authority set forth in this section to use necessary force and make arrests shall be in addition to any existing authority set forth in the statutory or common law of

the State, but shall not exceed the authority to use necessary force and make arrests set out in subsection (a) of this section.

(g) A private corporation described in subsection (a) of this section shall bear the reasonable costs of services provided by the ~~Department of Correction~~ State, its officers, employees, and agents for the corporation. The amount of the costs shall be determined by the ~~Secretary of the Department.~~member of the Council of State or Cabinet member of the agency or department that provided the services.

(h) This section is effective August 18, 2001 and applies to private correctional facilities and the employees of those correctional facilities constructed and contracted to be operated by August 18, 2001."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 10:59 a.m. on the 4th day of July, 2007.

Session Law 2007-163 **House Bill 817**

AN ACT TO ENACT THE NORTH CAROLINA RESIDENTIAL MORTGAGE FRAUD ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 20A.
"Residential Mortgage Fraud Act.

"**§ 14-118.10. Title.**

This Article shall be known and cited as the "Residential Mortgage Fraud Act."

"**§ 14-118.11. Definitions.**

(a) Unless otherwise provided in this Article, the following definitions apply in this Article:

(1) Mortgage loan. – A loan primarily secured by either (i) a mortgage or a deed of trust on residential real property or (ii) a security interest in a manufactured home (as defined by G.S. 143-145(7)) located or to be located on residential real property.

(2) Mortgage lending process. – The process through which a person seeks or obtains a mortgage loan including solicitation, application, origination, negotiation of terms, underwriting, signing, closing, and funding of a mortgage loan and services provided incident to a mortgage loan, including the appraisal of the residential real property. Documents involved in the mortgage lending process include (i) uniform residential loan applications or other loan applications, (ii) appraisal reports, (iii) settlement statements, (iv) supporting personal documentation for loan applications, including W-2 or other earnings or income statements, verifications of rent, income, and employment, bank statements, tax returns, and payroll stubs, and (v) any required mortgage-related disclosures.

(3) Pattern of residential mortgage fraud. – Residential mortgage fraud that involves five or more mortgage loans, which have the same or

similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics.

(4) Person. – An individual, partnership, limited liability company, limited partnership, corporation, association, or other entity, however organized.

(5) Residential real property. – Real property located in the State of North Carolina upon which there is located or is to be located a structure or structures designed principally for residential purposes, including, but not limited to, individual units of townhouses, condominiums, and cooperatives.

"**§ 14-118.12. Residential mortgage fraud.**

(a) A person is guilty of residential mortgage fraud when, for financial gain and with the intent to defraud, that person does any of the following:

(1) Knowingly makes or attempts to make any material misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, mortgage broker, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.

(2) Knowingly uses or facilitates or attempts to use or facilitate the use of any misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.

(3) Receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew, or should have known, resulted from a violation of subdivision (1) or (2) of this subsection.

(4) Conspires or solicits another to violate any of the provisions of subdivision (1), (2), or (3) of this subsection.

(b) It shall be sufficient in any prosecution under this Article for residential mortgage fraud to show that the party accused did the act with the intent to deceive or defraud. It shall be unnecessary to show that any particular person or entity was harmed financially in the transaction or that the person or entity to whom the deliberate misstatement, misrepresentation, or omission was made relied upon the misstatement, misrepresentation, or omission.

"**§ 14-118.13. Venue.**

In any criminal proceeding brought under this Article, the crime shall be construed to have been committed:

(1) In the county in which the residential real property for which a mortgage loan is being sought is located;

(2) In any county in which any act was performed in furtherance of the violation;

(3) In any county in which any person alleged to have violated this Article had control or possession of any proceeds of the violation;

(4) If a closing occurred, in any county in which the closing occurred; or

(5) In any county in which a document containing a deliberate misstatement, misrepresentation, or omission is filed with the official registrar of deeds or with the Division of Motor Vehicles.

"**§ 14-118.14. Authority to investigate and prosecute.**

Upon its own investigation or upon referral by the Office of the Commissioner of Banks, the North Carolina Real Estate Commission, the Attorney General, the North Carolina Appraisal Board, or other parties, of available evidence concerning violations of this Article, the proper district attorney may institute the appropriate criminal proceedings under this Article.

"**§ 14-118.15. Penalty for violation of Article.**

(a) Unless the conduct is prohibited by some other provision of law providing for greater punishment, a violation of this Article involving a single mortgage loan is a Class H felony.

(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment, a violation of this Article involving a pattern of residential mortgage fraud is a Class E felony.

"**§ 14-118.16. Forfeiture.**

(a) All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this Article shall be subject to forfeiture to the State as set forth in G.S. 14-2.3 and G.S. 14-7.20. However, the forfeiture of any real or personal property shall be subordinate to any security interest in the property taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law, and no real or personal property shall be forfeited under this section against an owner who made a bona fide purchase of the property without knowledge of a violation of this Article.

(b) In addition to the provisions of subsection (a) of this section, courts may order restitution to any person that has suffered a financial loss due to violation of this Article.

"**§ 14-118.17. Liability for reporting suspected mortgage fraud.**

In the absence of fraud, bad faith, or malice, a person shall not be subject to an action for civil liability for filing reports or furnishing other information regarding suspected residential mortgage fraud to a regulatory or law enforcement agency."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law upon approval of the Governor at 11:00 a.m. on the 4th day of July, 2007.

Session Law 2007-164 **Senate Bill 830**

AN ACT TO DEVELOP PERFORMANCE STANDARDS FOR THE DEPARTMENT OF TRANSPORTATION AND TO MODIFY MOTOR VEHICLE REGISTRATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-44.3 reads as rewritten:

"**§ 136-44.3. Maintenance program.**

The Department shall establish performance standards for the maintenance and operation of the State highway system. In each even-numbered year, the Department of Transportation shall survey the condition of the State highway system and shall prepare a report of the findings of the survey. The report shall provide both quantitative and

qualitative descriptions of the condition of the system and shall provide estimates of the following:

(1) The annual cost ~~of routine maintenance of the State highway system;~~to meet and sustain the established performance standards for the primary and secondary highway system, to include: (i) routine maintenance and operations, (ii) system preservation, and (iii) pavement and bridge rehabilitation.

~~(2) The cost of eliminating any maintenance backlog by categories of maintenance requirements;~~

(2) Projected system condition and corresponding optimal funding requirements for a seven-year plan to sustain established performance standards.

~~(3) The annual cost to resurface the State highway system based upon a 12-year repaving cycle for the primary system and a 15-year cycle for other highways; and~~

~~(4) The cost of eliminating any resurfacing backlog, by type of system.~~

On the basis of the ~~report,~~ report and from funds available, the Department of Transportation shall develop a statewide annual maintenance program for the State highway system, which shall be subject to the approval of the Board of Transportation and ~~shall take into consideration the general maintenance needs, special maintenance needs, vehicular traffic, and other factors deemed pertinent.~~is consistent with performance standards.

~~Each division engineer, at the end of the fiscal year, shall certify the maintenance of highways in his division in accordance with the annual work program, along with an explanation for any deviations.~~

The report on the condition of the State highway system and ~~the annual~~ maintenance ~~program~~ funding needs shall be presented to the Joint Legislative Transportation Oversight Committee by ~~November 30~~ December 31 of each even-numbered year, and copies shall be made available to any member of the General Assembly upon request."

SECTION 2. G.S. 136-33.2 is repealed.

SECTION 3. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-33.2A. Signs marking beginning of reduced speed zones.**

If a need to reduce speed in a speed zone is determined to exist by an engineer of the Department, there shall be a sign erected, of adequate size, at least 600 feet in advance of the beginning of any speed zone established by any agency of the State authorized to establish the same, which shall indicate a change in the speed limit."

SECTION 4. G.S. 20-52(a) reads as rewritten:

"(a) An owner of a vehicle subject to registration must apply to the Division for a certificate of title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application form provided by the Division. The application form must request all of the following information and may request other information the Division considers necessary:

(1) The owner's name.

(1a) If the owner is an individual, the following information:

a. The owner's mailing address and residence address.

b. The owner's ~~social security number.~~North Carolina drivers license number or North Carolina special identification card number.

(1b) If the owner is a firm, a partnership, a corporation, or another entity, the address of the entity.

(2) A description of the vehicle, including the following:

a. The make, model, type of body, and vehicle identification number of the vehicle.

b. Whether the vehicle is new or used and, if a new vehicle, the date the manufacturer or dealer sold the vehicle to the owner and the date the manufacturer or dealer delivered the vehicle to the owner.

(3) A statement of the owner's title and of all liens upon the vehicle, including the names and addresses of all lienholders in the order of their priority, and the date and nature of each lien.

The application form must contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579. In accordance with 42 U.S.C. 405(c)(2)(C)(v), the Division may disclose a social security number obtained under this subsection only for the purpose of administering the motor vehicle registration laws and may not disclose the social security number for any other purpose. The social security number of a person who applies to register a vehicle or of a person in whose name a vehicle is registered is therefore not a public record. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. 405(c)(2)(C)(vii)."

SECTION 5. G.S. 20-54 reads as rewritten:

"§ **20-54. Authority for refusing registration or certificate of title.**

The Division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

(1) The application contains a false or fraudulent statement, the applicant has failed to furnish required information or reasonable additional information requested by the Division, or the applicant is not entitled to the issuance of a certificate of title or registration of the vehicle under this Article.

(2) The vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.

(3) The Division has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle, or that the granting of registration or the issuance of a certificate of title would constitute a fraud against the rightful owner or another person who has a valid lien against the vehicle.

(4) The registration of the vehicle stands suspended or revoked for any reason as provided in the motor vehicle laws of this ~~State.~~State, except in such cases to abide by the ignition interlock installation requirements of G.S. 20-17.8.

(5) The required fee has not been ~~paid.~~paid, including any additional registration fees or taxes due pursuant to G.S. 20-91(c).

(6) The vehicle is not in compliance with the emissions inspection requirements of Part 2 of Article 3A of this Chapter or a civil penalty assessed as a result of the failure of the vehicle to comply with that Part has not been paid.

(7) The Division has been notified that the motor vehicle has been seized by a law enforcement officer and is subject to forfeiture pursuant to

G.S. 20-28.2, et seq., or any other statute. However, the Division shall not prevent the renewal of existing registration prior to an order of forfeiture.

(8) The vehicle is a golf cart or utility vehicle.

(9) The applicant motor carrier is subject to an order issued by the Federal Motor Carrier Safety Administration or the Division to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1)."

SECTION 6. G.S. 20-54.1(a) reads as rewritten:

"(a) Upon receipt of notice of conviction of a violation of an offense involving impaired driving while the person's license is revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2, the Division shall revoke the registration of all motor vehicles registered in the convicted person's name and shall not register a motor vehicle in the convicted person's name until the convicted person's license is ~~restored.~~ restored, except in such cases to abide by the ignition interlock installation requirements of G.S. 20-17.8. Upon receipt of notice of revocation of registration from the Division, the convicted person shall surrender the registration on all motor vehicles registered in the convicted person's name to the Division within 10 days of the date of the notice."

SECTION 7. G.S. 20-91(c) reads as rewritten:

"(c) If an audit is conducted and it becomes necessary to assess the registrant for deficiencies in registration fees or taxes due based on the audit, the assessment will be determined based on the schedule of rates prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. If, during an audit, it is determined that:

(1) A registrant failed or refused to make acceptable records available for audit as provided by law; or

(2) A registrant misrepresented, falsified or concealed records, then all plates and cab cards shall be deemed to have been issued erroneously and are subject to cancellation. The Commissioner, based on information provided by the Department of Revenue audit, may assess the registrant for an additional percentage up to one hundred percent (100%) North Carolina registration fees at the rate prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. The Commissioner may cancel all registration and reciprocal privileges.

As a result of an audit, no assessment shall be issued and no claim for refund shall be allowed which is in an amount of less than ten dollars ($10.00).

The results of any audit conducted under this section shall be provided to the Division. The notice of any assessments shall be sent by the Division to the registrant by registered or certified mail at the address of the registrant as it appears in the records of the Division of Motor Vehicles in Raleigh. The notice, when sent in accordance with the requirements indicated above, will be sufficient regardless of whether or not it was ever received.

The failure of any registrant to pay any additional registration fees or tax within 30 days after the billing date, shall constitute cause for revocation of registration license plates, cab cards and reciprocal ~~privileges.~~privileges, or shall constitute cause for the

denial of registration of a vehicle registered through the International Registration Plan or a vehicle no longer registered through the International Registration Plan."

SECTION 8. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 11:01 a.m. on the 4th day of July, 2007.

Session Law 2007-165 **Senate Bill 1290**

AN ACT TO ALLOW EARLIER CONDITIONAL RESTORATION OF A DRIVERS LICENSE IN CERTAIN CIRCUMSTANCES, AND TO PROVIDE FOR THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS TO BE USED TO MONITOR INDIVIDUALS WHO HAVE BEEN SENTENCED FOR DWI CONVICTIONS OR AS NECESSARY BY THE COURTS TO ENSURE COMPLIANCE WITH CONDITIONS OF RELEASE, PROBATION, OR PAROLE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 20-19(d)(2) reads as rewritten:

"(2) He is not currently an excessive user of ~~alcohol~~ alcohol, drugs, or prescription ~~drugs.~~drugs, or unlawfully using any controlled substance."

SECTION 1.(b) G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of ~~alcohol~~ alcohol, drugs, or prescription ~~drugs.~~drugs, or unlawfully using any controlled substance.

The Division may conditionally restore the person's license after it has been revoked for at least 24 months under G.S. 20-17(a)(2) if the person provides the Division with satisfactory proof that:

(1) He has not consumed any alcohol for the 12 months preceding the restoration while being monitored by a continuous alcohol monitoring device of a type approved by the Department of Correction.

(2) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs.

(3) He is not currently an excessive user of drugs or prescription drugs.

(4) He is not unlawfully using any controlled substance.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

SECTION 2. G.S. 20-179(e) reads as rewritten:

"(e) Mitigating Factors to Be Weighed. – The judge shall also determine before sentencing under subsection (f) whether any of the mitigating factors listed below apply to the defendant. The judge shall weigh the degree of mitigation of each factor in light of the particular circumstances of the case. The factors are:

…

(6a) Completion of a substance abuse assessment, compliance with its recommendations, and simultaneously maintaining 60 days of continuous abstinence from alcohol consumption, as proven by a continuous alcohol monitoring system. The continuous alcohol monitoring system shall be of a type approved by the Department of Correction.

(7) Any other factor that mitigates the seriousness of the offense. Except for the factors in subdivisions (4), ~~(6)~~ (6), (6a), and (7), the conduct constituting the mitigating factor shall occur during the same transaction or occurrence as the impaired driving offense."

SECTION 3. G.S. 20-179 is amended by adding a new subsection to read:

"(h1) The judge may impose, as a condition of probation for defendants subject to Level One or Level Two punishments, that the defendant abstain from alcohol consumption for a minimum of 30 days, to a maximum of 60 days, as verified by a continuous alcohol monitoring system. The total cost to the defendant for the continuous alcohol monitoring system may not exceed one thousand dollars ($1,000). The defendant's abstinence from alcohol shall be verified by a continuous alcohol monitoring system of a type approved by the Department of Correction.

(h2) Notwithstanding the provisions of subsection (h1), if the court finds, upon good cause shown, that the defendant should not be required to pay the costs of the continuous alcohol monitoring system, the court shall not impose the use of a continuous alcohol monitoring system unless the local governmental entity responsible for the incarceration of the defendant in the local confinement facility agrees to pay the costs of the system.

(h3) Any fees or costs paid pursuant to subsections (h1) or (h2) of this section shall be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees or costs collected under this subsection shall be transmitted to the entity providing the continuous alcohol monitoring system."

SECTION 4. G.S. 15A-1374(b) is amended by adding a new subdivision to read:

"(8b) Remain alcohol free, and prove such abstinence through evaluation by a continuous alcohol monitoring system of a type approved by the Department of Correction."

SECTION 5. G.S. 15A-1374 is amended by adding a new subsection to read:

"(d) Any fees or costs paid by the parolee in order to comply with the imposition of subdivision (8b) of subsection (b) of this section shall be paid to the clerk of court for the county in which the parolee was convicted. Fees or costs collected under this

subsection shall be transmitted to the entity providing the continuous alcohol monitoring system."

SECTION 6. The Department of Correction shall establish regulations for continuous alcohol monitoring systems that are authorized for use by the courts as evidence that an offender on probation has abstained from the use of alcohol for a specified period of time. A "continuous alcohol monitoring system" is a device that is worn by a person that can detect, monitor, record, and report the amount of alcohol within the wearer's system over a continuous 24-hour daily basis. The regulations shall include the procedures for supervision of the offender, collection and monitoring of the results, and the transmission of the data to the court for consideration by the court. All courts, including those using continuous alcohol monitoring systems prior to the effective date of this Act, shall comply with the regulations established by the Department pursuant to this section.

The Secretary, or the Secretary's designee, shall approve continuous alcohol monitoring systems for use by the courts prior to their use by a court as evidence of alcohol abstinence, or their use as a condition of probation. The Secretary shall not unreasonably withhold approval of a continuous alcohol monitoring system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

SECTION 7. The Department of Correction shall issue Requests for Information for continuous alcohol monitoring equipment and monitoring services to consider the development of pilot programs for the use of alcohol monitoring systems for offenders supervised by the Division of Community Corrections as an intermediate punishment pursuant to Article 81B of Chapter 15A of the General Statutes or as a condition of probation. The RFIs shall require separate submissions as follows:

(1) For use as an intermediate punishment:
   a. One submission for equipment, maintenance, and technical support.
   b. One submission for equipment, maintenance, technical support, and monitoring services.
(2) For use as a condition of probation:
   a. One submission for equipment, maintenance, and technical support.
   b. One submission for equipment, maintenance, technical support, and monitoring services.

The Department shall design the RFIs to use the most recent, cost-effective technology available; the Department shall not restrict vendors to the specifications of any equipment currently used by the courts as evidence of abstinence from alcohol by an offender. The RFIs shall be issued by January 1, 2008.

SECTION 8. The Department of Correction shall report to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2008, on the following:

(1) The Department's evaluation of continuous alcohol monitoring systems as evidence of an offender's abstinence from alcohol.
(2) The results of the Requests for Information issued in the 2007-2008 fiscal year for continuous alcohol monitoring of offenders supervised by the Division of Community Corrections.

(3) The Department's recommendations for implementing continuous alcohol monitoring, including:

a. An evaluation of the costs and benefits of alcohol monitoring technology.

b. The size and characteristics of the offender population and the proposed number of offenders to be monitored.

c. The contractual and internal costs of the monitoring program.

d. The proposed caseloads for probation officers who would supervise offenders using continuous alcohol monitoring technology.

e. Whether the State should conduct a pilot program for continuous alcohol monitoring in limited jurisdictions or statewide.

The Department shall also explore funding options through grants and other sources, including the possibility of charging a fee to offenders to partially offset the costs of the program. The Department shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on any funds identified.

SECTION 9. Sections 1 through 5 of this act become effective December 1, 2007, and apply to offenses committed on or after that date. Nothing in this act shall be construed to prohibit a court from either continuing or allowing the use of continuous alcohol monitoring systems as evidence of alcohol abstinence prior to the effective date of Sections 1 through 5. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 11:02 a.m. on the 4th day of July, 2007.

Session Law 2007-166 **House Bill 583**

AN ACT TO MODIFY THE REQUIREMENTS FOR PARTICIPATION IN A COMMUNITY COLLEGE LATERAL ENTRY PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296(c1) reads as rewritten:

"(c1) The State Board of Community Colleges may provide a program of study for lateral entry teachers to complete the coursework necessary to earn a teaching certificate. To this end, the State Board of Education, in consultation with the State Board of Community Colleges, shall establish a competency-based program of study for lateral entry teachers to be implemented within the Community College System no later than May 1, 2006. This program must meet standards set by the State Board of Education.

The State Board of Community Colleges and the State Board of Education shall jointly identify the community college courses and the teacher education program courses that are necessary and appropriate for inclusion in the community college program of study for lateral entry teachers. To the extent possible, any courses that must be completed through an approved teacher education program shall be taught on a community college campus or shall be available through distance learning.

In order to participate in the community college program of study for lateral entry teachers, an individual ~~must:~~

~~(1)~~ ~~Hold~~must hold at least a bachelors degree from a regionally accredited institution of higher ~~education;~~ education.

~~(2) Have completed the bachelors degree at least five years before undertaking the program of study under this subsection; and~~

~~(3) Hold a lateral entry teaching certificate and be employed as a teacher in a local school administrative unit.~~

An individual who successfully completes this program of study and meets all other requirements of certification set by the State Board of Education shall be recommended for a North Carolina teaching certificate."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 11:04 a.m. on the 4th day of July, 2007.

Session Law 2007-167 **House Bill 824**

AN ACT TO AMEND THE GENDER EQUITY REPORTING STATUTE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-157.1 reads as rewritten:

"§ **143-157.1. Reports on gender-proportionate appointments to statutorily created decision-making regulatory bodies.**

(a) Appointments. – In appointing members ~~to any statutorily created decision-making or regulatory board, commission, council, or committee of the State,~~ to public bodies set forth in subsections (c) and (d) of this section, the appointing authority should select, from among the most qualified persons, those persons whose appointment would promote membership on the ~~board, commission, council, or committee~~ body that accurately reflects the proportion that each gender represents in the population of the State as a whole or, in the case of a local ~~board, commission, council, or committee,~~ body, in the population of the area represented by the ~~board, commission, council,~~ or ~~committee,~~ body, as determined pursuant to the most recent federal decennial census, unless the law regulating such appointment requires otherwise. If there are multiple appointing authorities for the ~~board, commission, council, or committee,~~ body, they may consult with each other to accomplish the purposes of this section.

(b) Reports Generally. – ~~Except as provided at the end of this section, each~~ Each appointing authority described in subsection (a) shall submit a report to the Secretary of State annually ~~by December 1~~ which discloses the number of appointments made during the preceding year ~~from each gender~~ and the number of appointments of each gender made, expressed both in numerical terms and as a percentage of the total membership of the ~~board, commission, council, or committee.~~ body. ~~A copy of the report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.~~ In addition, each appointing authority shall designate a person responsible for retaining all applications for appointment, who shall ensure that information describing each applicant's gender and qualifications is available for public inspection during reasonable hours. Nothing in this section requires disclosure of an applicant's identity or of any other information made confidential by law. ~~In those cases where a county or a city is the appointing authority, all the reports referred to above shall be filed with the clerk to the board of county commissioners or~~

~~the city clerk whichever is applicable. Such reports shall be reported annually by December 1 to the governing boards of the respective county or city and to the Secretary of State.~~ The Secretary of State shall prescribe the form used to report these appointments and may accept these reports by electronic means. Reports by appointing authorities shall be due in the Department of the Secretary of State on or before September 1. From these reports, the Secretary of State shall generate an annual composite report that shall be published by December 1. Copies of the report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

(c) State Reporting. – Each State appointing authority that makes appointments to a statutorily created public body, however denominated, except those having only advisory authority, shall file a report with the Secretary of State as prescribed in subsection (b) of this section. The Secretary shall submit to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore by July 1 of each year the names of all State bodies that an appointing authority must report on pursuant to this section.

(d) Reporting by Local Units of Government. – In those cases where a county or a city is the appointing authority, the reporting required by subsection (b) of this section shall be submitted to the Secretary of State by the clerk of that appointing authority. Appointments to the following local, municipal, or county public bodies, or to public bodies however denominated that have the functions of the following public bodies, must be reported:

(1) City or county ABC board, or local board created pursuant to G.S. 18B-703.
(2) Adult Care Home Community Advisory Committee.
(3) Airport Authority.
(4) Community Child Protection Team or a Child Fatality Prevention Team.
(5) Civil Service Board or similarly named board established by local act.
(6) Community Relations Committee.
(7) Council of Governments.
(8) Criminal Justice Partnership Task Force.
(9) Emergency Planning Committee.
(10) Board of Equalization and Review.
(11) Local Board of Health.
(12) Hospital Authority.
(13) Housing Authority.
(14) Human Relations Commission.
(15) County Industrial Facilities and Pollution Control Financing Authority.
(16) Juvenile Crime Prevention Council.
(17) Library Board of Trustees.
(18) Community College Board of Trustees.
(19) Economic development commission.
(20) Area mental health, developmental disabilities, and substance abuse board.
(21) Adult care home community advisory committee.
(22) Local partnership for children.
(23) Planning Board.
(24) Recreation Board.

(25) County board of social services.
(26) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes, a regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes, or a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.
(27) Local tourism development authority.
(28) Water and sewer authority.
(29) Workforce Development Board.
(30) Zoning Board of Adjustment.
(31) Planning and Zoning Board.
(32) Board of Adjustment.
(33) Historic Preservation Commission.
(34) Redevelopment Commission.
(35) City board of education (if appointive).
(36) Metropolitan Planning Organization.
(37) Rural Planning Organization."

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

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 11:09 a.m. on the 4th day of July, 2007.

Session Law 2007-168 **House Bill 1479**

AN ACT TO PROVIDE PROCEDURES AND SANCTIONS TO ADDRESS CONTEMPT BY JUVENILES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 5A of the General Statutes is amended by adding a new Article to read:

"Article 3.
"Contempt by Juveniles.

"**§ 5A-31. Contempt by a juvenile.**

(a) Each of the following, when done by an unemancipated minor who (i) is at least six years of age, (ii) is not yet 16 years of age, and (iii) has not been convicted of any crime in superior court, is contempt by a juvenile:

(1) Willful behavior committed during the sitting of a court and directly tending to interrupt its proceedings.
(2) Willful behavior committed during the sitting of a court in its immediate view and presence and directly tending to impair the respect due its authority.
(3) Willful disobedience of, resistance to, or interference with a court's lawful process, order, directive, or instruction or its execution.
(4) Willful refusal to be sworn or affirmed as a witness, or, when so sworn or affirmed, willful refusal to answer any legal and proper question when the refusal is not legally justified.

(5) Willful or grossly negligent failure to comply with schedules and practices of the court resulting in substantial interference with the business of the court.

(6) Willful refusal to testify or produce other information upon the order of a judge acting pursuant to Article 61 of Chapter 15A of the General Statutes, Granting of Immunity to Witnesses.

(7) Willful communication with a juror in an improper attempt to influence the juror's deliberations.

(8) Any other act or omission specified in another Chapter of the General Statutes as grounds for criminal contempt.

(b) Contempt by a juvenile is direct contempt by a juvenile when each of the following conditions is met:

(1) The act is committed within the sight or hearing of a presiding judicial official.

(2) The act is committed in, or in the immediate proximity to, the room where proceedings are being held before the court.

(3) The act is likely to interrupt or interfere with matters then before the court.

(c) Contempt by a juvenile that is not direct contempt by a juvenile is indirect contempt by a juvenile.

"**§ 5A-32. Direct contempt by a juvenile.**

(a) A presiding judicial official may summarily impose measures in response to direct contempt by a juvenile when necessary to restore order or maintain the dignity and authority of the court and when the measures are imposed substantially contemporaneously with the contempt. Before imposing measures summarily, the judicial official shall do all of the following:

(1) Give the juvenile summary notice of the contempt allegation and a summary opportunity to respond.

(2) Appoint an attorney to represent the juvenile and allow time for the juvenile and attorney to confer.

(3) Find facts supporting the summary imposition of measures in response to contempt by a juvenile. The facts shall be established beyond a reasonable doubt.

(b) When a judicial official chooses not to proceed summarily, the official may enter an order appointing counsel for the juvenile and directing the juvenile to appear before a judge in a juvenile proceeding at a reasonable time specified in the order and show cause why the juvenile should not be held in contempt. A copy of the order shall be furnished to the juvenile and to the juvenile's attorney. If the direct contempt by a juvenile is based on acts before a judge that so involve the judge that the judge's objectivity may reasonably be questioned, the order shall be returned before a different judge presiding in juvenile court.

(c) After a determination is made pursuant to subsection (a) or (b) of this section that a juvenile has committed direct contempt, the court may order any or all of the following:

(1) That the juvenile be detained in a juvenile detention facility for up to five days.

(2) That the juvenile perform up to 30 hours of supervised community service as arranged by a juvenile court counselor.

(3) That the juvenile be required to undergo any evaluation necessary for the court to determine the needs of the juvenile.

The court shall not impose any of these sanctions without finding first that the juvenile's act or omission was willfully contemptuous or that the act or omission was preceded by a clear warning by the court that the conduct is improper.

(d) A judicial official who finds a juvenile in direct contempt may at any time terminate or reduce a sanction of detention or eliminate or reduce the number of hours of community service ordered if warranted by the juvenile's conduct and the ends of justice.

(e) A judicial official may orally order that a juvenile the official is charging with direct contempt be taken into custody and restrained to the extent necessary to assure the juvenile's presence for summary proceedings or notice of plenary proceedings.

(f) The clerk shall place a copy of any order or other paper issued pursuant to this section in the juvenile's juvenile file, if one exists, or in a new juvenile file.

(g) Appeal from an order finding a juvenile in direct contempt is to the Court of Appeals.

"**§ 5A-33. Indirect contempt by a juvenile.**

Indirect contempt by a juvenile may be adjudged and sanctioned only pursuant to the procedures in Subchapter II of Chapter 7B of the General Statutes.

"**§ 5A-34. When minor can be in contempt.**

(a) No act or omission by a minor younger than six years of age constitutes contempt.

(b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or omissions by a minor who:

(1) Is 16 years of age or older;

(2) Is married or otherwise emancipated; or

(3) Before the act or omission, was convicted in superior court of any criminal offense."

SECTION 2. G.S. 7B-1501(7) reads as rewritten:

"(7) Delinquent juvenile. – Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle ~~laws.~~ laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31."

SECTION 3. G.S. 7B-1603 reads as rewritten:

"§ **7B-1603. Jurisdiction in certain circumstances.**

The court has exclusive original jurisdiction of all of the following proceedings:

(1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this ~~Chapter;~~ Chapter.

(2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be ~~rendered; and~~ rendered.

(3) Proceedings to determine whether a juvenile should be emancipated.

(4) Proceedings in which a juvenile has been ordered pursuant to G.S. 5A-32(b) to appear and show cause why the juvenile should not be held in contempt."

SECTION 4. Article 17 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"**§ 7B-1707. Direct contempt by juvenile.**

The preceding sections of this Article do not apply when a juvenile is ordered pursuant to G.S. 5A-32(b) to appear and show cause why the juvenile should not be held in contempt."

SECTION 5. G.S. 7B-2507(b) reads as rewritten:

"(b) Points. – Points are assigned as follows:

(1) For each prior adjudication of a Class A through E felony offense, 4 points.

(2) For each prior adjudication of a Class F through I felony offense or Class A1 misdemeanor offense, 2 points.

(3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1 point.

(4) If the juvenile was on probation at the time of offense, 2 points.

No points shall be assigned for a prior adjudication that a juvenile is in direct contempt of court or indirect contempt of court."

SECTION 6. G.S. 7B-2508(a) reads as rewritten:

"(a) Offense Classification. – The offense classifications are as follows:

(1) Violent – Adjudication of a Class A through E felony offense;

(2) Serious – Adjudication of a Class F through I felony offense or a Class A1 misdemeanor;

(3) Minor – Adjudication of a Class 1, 2, or 3 ~~misdemeanor.~~ misdemeanor or adjudication of indirect contempt by a juvenile."

SECTION 7. G.S. 143B-536 is amended by adding a new subdivision to read:

"(14a) Assist in the implementation of any order entered pursuant to G.S. 5A-32 as directed by a judicial official exercising jurisdiction under that section."

SECTION 8. This act becomes effective December 1, 2007, and applies to acts occurring or offenses committed on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 11:11 a.m. on the 4th day of July, 2007.

Session Law 2007-169 **Senate Bill 487**

AN ACT TO EXTEND THE REPORTING DEADLINE FOR THE STATE AND LOCAL FISCAL MODERNIZATION STUDY COMMISSION, AND TO TEMPORARILY PROVIDE FOR THE MEMBERSHIP OF THE BOARD OF AWARDS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 47.5 of S.L. 2006-248 reads as rewritten:

"**SECTION 47.5.** The Commission shall report its ~~finding and recommendation~~ findings and recommendations to the 2007 Regular Session of the General Assembly no later than ~~May 1, 2007.~~ May 1, 2008. The Commission may make one or more interim reports. The Commission shall terminate upon the filing of its final report."

SECTION 2. Notwithstanding G.S. 143-52.1 and S.L. 2006-203, through December 31, 2008, the members of the Advisory Budget Commission in office on June 30, 2007, shall continue to be eligible for appointment to the Board of Awards, and vacancies may be filled by the appointing authority. Through December 31, 2008, the Secretary of Administration shall appoint the Board of Awards from among those eligible.

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 11:12 a.m. on the 4th day of July, 2007.

Session Law 2007-170 **Senate Bill 1055**

AN ACT TO REQUIRE REBATES TO BE MAILED TO CONSUMERS WITHIN A CERTAIN TIME FRAME AND TO REQUIRE THE DISCLOSURE OF THE TERMS OF THE REBATE OFFERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

"**§ 75-40. Deadline for mailing consumer rebates.**

(a) Any person, firm, or corporation engaged in commerce that offers a rebate shall provide the rebate to the consumer within 60 days of the date of receipt by the person, firm, or corporation of the completed rebate form submitted by the consumer. If the rebate claim is submitted electronically, the rebate shall be provided to the consumer within 60 days of the date upon which the claim is submitted. However, a person, firm, or corporation shall not be responsible for delays in providing rebates to consumers caused by conditions beyond their reasonable control including, but not limited to, natural disasters, wars, terrorist acts, and states of emergency. As used in this section, the following apply:

(1) The term 'rebate' means the return of a portion of the purchase price paid by a consumer for goods or services that is conditioned upon the consumer submitting a request for redemption after satisfying the terms and conditions of the offer.

(2) The term 'rebate' shall not include any refund that may be given to a consumer in accordance with a company's frequent shopper customer rewards program.

(3) The term 'consumer' does not apply to those individuals who are eligible for rebates as result of their eligibility under Medicaid.

(b) Rebate forms shall include the telephone number or e-mail address of the person, firm, or corporation that is offering the rebate. Rebate forms shall also include all of the following conspicuously printed on the rebate form:

(1) The terms of the rebate.

(2) Requirements for a valid claim, including any additional information to be submitted with the rebate form.

(3) The expiration date of the rebate offer, if applicable.

(c) A rebate offer shall provide a period of at least 30 days during which the consumer may submit the rebate form. The time period allowed for submission shall

begin as soon as reasonably possible, but no later than six months, after the date of purchase.

(d) Nothing in this section shall apply to a rebate offer of five dollars ($5.00) or less.

(e) Nothing in this section shall be construed to create liability on the part of a retailer for a rebate offered by a manufacturer or liability on the part of a manufacturer for a rebate offered by a retailer.

(f) A violation of this section is an unfair trade practice under G.S. 75-1.1 and is subject to all of the enforcement and penalty provisions of an unfair trade practice under this Article."

SECTION 2. This act becomes effective October 1, 2007, and applies to sales of goods and services that occur on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law upon approval of the Governor at 11:15 a.m. on the 4th day of July, 2007.

Session Law 2007-171 **House Bill 590**

AN ACT TO LIMIT THE LIABILITY OF ANIMAL EXHIBITIONS AT AGRICULTURAL FAIRS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 99E-30(1) reads as rewritten:

"(1) Agritourism activity. – Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. "Agritourism activity" includes an activity involving any animal exhibition at an agricultural fair licensed by the Commissioner of Agriculture pursuant to G.S. 106-520.3."

SECTION 2. This act is effective when it becomes law and applies to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law upon approval of the Governor at 11:16 a.m. on the 4th day of July, 2007.

Session Law 2007-172 **Senate Bill 17**

AN ACT TO AMEND THE PRETRIAL RELEASE REQUIREMENTS FOR SEX OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-534.4 reads as rewritten:

"§ **15A-534.4. Sex offenses and crimes of violence against child victims: bail and pretrial release.**

(a) In all cases in which the defendant is charged with felonious or misdemeanor child abuse, with taking indecent liberties with a minor in violation of G.S. 14-202.1, with rape or any other sex offense in violation of Article 7A, Chapter 14 of the General Statutes, against a minor victim, with incest with a minor in violation of G.S. 14-178, with kidnapping, abduction, or felonious restraint involving a minor victim, with a violation of G.S. 14-320.1, with assault or any other crime of violence against a minor victim, or with communicating a threat against a minor victim, in addition to the provisions of G.S. 15A-534 a judicial official ~~may~~ shall impose the following conditions on pretrial ~~release;~~release:

(1) That the defendant stay away from the home, temporary residence, school, business, or place of employment of the alleged victim.

(2) That the defendant refrain from communicating or attempting to communicate, directly or indirectly, with the victim, except under circumstances specified in an order entered by a judge with knowledge of the pending charges.

(3) That the defendant refrain from assaulting, beating, intimidating, stalking, threatening, or harming the alleged victim.

The conditions set forth above ~~may~~ shall be imposed in addition to any other conditions that the judicial official may impose on pretrial release.

(b) Notwithstanding the provisions of subsection (a) of this section, upon request of the defendant, the judicial official may waive one or more of the conditions required by subdivisions (1) and (2) of subsection (a) of this section if the judicial official makes written findings of fact that it is not in the best interest of the alleged victim that the condition be imposed on the defendant."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Became law upon approval of the Governor at 11:30 a.m. on the 4th day of July, 2007.

Session Law 2007-173 **House Bill 150**

AN ACT FOR MODIFYING THE SCHOOL ADMISSION REQUIREMENTS TO ENSURE THAT EVERY CHILD IS READY TO ENTER KINDERGARTEN AND THEREBY REDUCE STUDENT DROPOUT RATES IN LATER GRADES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-364 reads as rewritten:

"§ **115C-364. Admission requirements.**

(a) A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of 5 on or before ~~October 16~~August 31 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~August 31 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(b) A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of 5 on or before ~~October 16~~August 31 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~August 31 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school may require the parent or guardian of any child presented for admission for the first time to that school to furnish a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of birth.

(d) A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2009-2010 school year.

In the General Assembly read three times and ratified this the 25th day of June, 2007.

Became law upon approval of the Governor at 12:00 p.m. on the 4th day of July, 2007.

Session Law 2007-174 **House Bill 1449**

AN ACT TO PROVIDE FOR FOUR-YEAR TERMS FOR THE MEMBERS OF THE NORTH CAROLINA PROFESSIONAL TEACHING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-295.1(c) reads as rewritten:

"(c) ~~Beginning September 1, 1996, the~~ The Commission shall consist of the following 16 members:

(1) The Governor shall appoint four teachers from a list of names, including the State Teacher of the Year, submitted by the State Board of Education; one principal; one superintendent; and two representatives of schools of education, one of which is in a constituent institution of The University of North Carolina and one of which is in a private college or university.

(2) The President Pro Tempore of the Senate shall appoint three teachers who have different areas of expertise or who teach at different grade levels; and one at-large member.

(3) The Speaker of the House of Representatives shall appoint three teachers who have different areas of expertise or who teach at different grade levels; and one at-large member.

In making appointments, the appointing authorities are encouraged to select qualified citizens who are committed to improving the teaching profession and student achievement and who represent the racial, geographic, and gender diversity of the State. Before their appointment to this Commission, with the exception of the at-large members, the members must have been actively engaged in the profession of teaching, in the education of students in teacher education programs, or in the practice of public school administration for at least three years, at least two of which occurred in this State. The members shall serve for ~~two-year terms. Initial terms shall begin September 1, 1994.~~ four-year staggered terms. Terms shall begin on September 1. Vacancies in the membership shall be filled by the original appointing authority using the same criteria as provided in this subsection."

SECTION 2. In order to provide for four-year staggered terms for members of the North Carolina Professional Teaching Standards Commission, the Governor shall designate two of his appointees whose terms shall expire August 31, 2008, two whose terms shall expire August 31, 2009, two whose terms shall expire August 31, 2010, and two whose terms shall expire August 31, 2011; the President Pro Tempore of the Senate shall designate one of his appointees whose term shall expire August 31, 2008, one whose term shall expire August 31, 2009, one whose term shall expire August 31, 2010, one whose term shall expire August 31, 2011; and the Speaker of the House of Representatives shall designate one of his appointees whose term shall expire August 31, 2008, one whose term shall expire August 31, 2009, one whose term shall expire August 31, 2010, and one whose term shall expire August 31, 2011.

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 7:05 a.m. on the 5th day of July, 2007.

Session Law 2007-175 **House Bill 1634**

AN ACT TO ESTABLISH CUSTODY, VISITATION, EXPEDITED HEARING, AND ELECTRONIC COMMUNICATIONS PROCEDURES WHEN A PARENT RECEIVES MILITARY TEMPORARY DUTY, DEPLOYMENT, OR MOBILIZATION ORDERS.

Whereas, currently there are six major military bases in North Carolina; and

Whereas, the military population of this State is the fourth largest in the nation, with active-duty service members numbering over 100,000; and

Whereas, temporary duty, the deployment of an active-duty service member, or the mobilization of a member of the National Guard or Reserves, sometimes with little advance notice, can have a disruptive effect on custody or visitation arrangements involving minor children of service members; and

Whereas, service members should be protected, as should their minor children, from the loss of custodial arrangements and disruption of family contact due to the service member's absence pursuant to military orders for temporary duty, deployment, or mobilization; and

Whereas, other members of a service member's family, such as parents or current spouses, can provide love, comfort, care, and continuity to the service member's child through delegated visitation when a service member is absent due to military orders; and

Whereas, the regular scheduling of hearings may be harmful to the interest of service members who, due to military orders, may need to have an expedited hearing or may need to use electronic means to give testimony when they cannot appear in person in court; and

Whereas, the use of expedited hearings and testimony by electronic means, at the request of the service member who is absent or about to depart, would aid and promote fair, efficient, and prompt judicial processes for the resolution of family law matters; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.7(a) reads as rewritten:

"(a) ~~An~~ Except as otherwise provided in G.S. 50-13.7A, an order of a court of this State for support of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested subject to the limitations of G.S. 50-13.10. Subject to the provisions of G.S. 50A-201, 50A-202, and 50A-204, an order of a court of this State for custody of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested."

SECTION 2. Article 1 of Chapter 50 of the General Statutes is amended by adding a new section to read:

"**§ 50-13.7A. Custody and visitation upon military temporary duty, deployment, or mobilization.**

(a) Purpose. – It is the purpose of this section to provide a means by which to facilitate a fair, efficient, and swift process to resolve matters regarding custody and visitation when a parent receives temporary duty, deployment, or mobilization orders from the military.

(b) Definitions. – As used in this section:

(1) The term 'deployment' means the temporary transfer of a service member serving in an active-duty status to another location in support of combat or some other military operation.

(2) The term 'mobilization' means the call-up of a National Guard or Reserve service member to extended active duty status. For purposes of this definition, 'mobilization' does not include National Guard or Reserve annual training.

(3) The term 'temporary duty' means the transfer of a service member from one military base to a different location, usually another base, for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

(c) Custody. – When a parent who has custody, or has joint custody with primary physical custody, receives temporary duty, deployment, or mobilization orders from the military that involve moving a substantial distance from the parent's residence or

otherwise have a material effect on the parent's ability to exercise custody responsibilities:

(1) Any temporary custody order for the child during the parent's absence shall end no later than 10 days after the parent returns, but shall not impair the discretion of the court to conduct a hearing for emergency custody upon return of the parent and within 10 days of the filing of a verified motion for emergency custody alleging an immediate danger of irreparable harm to the child; and

(2) The temporary duty, mobilization, or deployment and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer custody from the service member.

(d) Visitation. – If the parent with visitation rights receives military temporary duty, deployment, or mobilization orders that involve moving a substantial distance from the parent's residence or otherwise have a material effect on the parent's ability to exercise visitation rights, the court may delegate the parent's visitation rights, or a portion thereof, to a family member with a close and substantial relationship to the minor child for the duration of the parent's absence, if delegating visitation rights is in the child's best interest.

(e) Expedited Hearings. – Upon motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall, for good cause shown, hold an expedited hearing in custody and visitation matters instituted under this section when the military duties of the parent have a material effect on the parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing.

(f) Electronic Communications. – Upon motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall, upon reasonable advance notice and for good cause shown, allow the parent to present testimony and evidence by electronic means in custody and visitation matters instituted under this section when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing. The phrase 'electronic means' includes communication by telephone, video teleconference, or the Internet.

(g) Nothing in this section shall alter the duty of the court to consider the best interest of the child in deciding custody or visitation matters."

SECTION 3. This act becomes effective October 1, 2007, and applies to custody or visitation actions instituted on or after that date.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 7:48 a.m. on the 5th day of July, 2007.

Session Law 2007-176 **House Bill 313**

AN ACT TO REQUIRE THAT SETTLEMENT AGENTS INCLUDE THE IDENTITY OF THE LOAN ORIGINATOR ON THE DEED OF TRUST, AND THAT LENDERS INCLUDE INFORMATION REGARDING THE LOAN ORIGINATION IN THE LOAN CLOSING INSTRUCTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45A-4 reads as rewritten:

"§ **45A-4. Duty of settlement agent.**

(a) The settlement agent shall cause recordation of the deed, if any, the deed of trust or mortgage, or other loan documents required to be recorded at settlement. The settlement agent shall not disburse any of the closing funds prior to the recordation of any deeds or loan documents required to be filed by the lender, if applicable, and verification that the closing funds used to fund disbursement are deposited in the settlement agent's trust or escrow account in one or more forms prescribed by this Chapter. Unless otherwise provided in this Chapter, a settlement agent shall not cause a disbursement of settlement proceeds unless those settlement proceeds are collected funds. Notwithstanding that a deposit made by a settlement agent to its trust or escrow account does not constitute collected funds, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit if the deposit is in one or more of the following forms:

(1) A certified check;

(2) A check issued by the State, the United States, a political subdivision of the State, or an agency or instrumentality of the United States, including an agricultural credit association;

(3) A cashier's check, teller's check, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government;

(4) A check drawn on the trust account of an attorney licensed to practice in the State of North Carolina;

(5) A check or checks drawn on the trust or escrow account of a real estate broker licensed under Chapter 93A of the General Statutes;

(6) A personal or commercial check or checks in an aggregate amount not exceeding five thousand dollars ($5,000) per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent's trust or escrow account;

(7) A check drawn on the account of or issued by a mortgage banker licensed under Article 19A of Chapter 53 of the General Statutes that has posted with the Commissioner of Banks a surety bond in the amount of at least three hundred thousand dollars ($300,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any settlement agent with a claim against the licensee for a dishonored check.

(b) If the settlement agent receives information from the lender as provided in G.S. 45A-5(b) or otherwise has actual knowledge that a mortgage broker or other person acted as a mortgage broker in the origination of the loan, the settlement agent shall place an entry on page 1 of the deed of trust showing the name of the mortgage broker or other person who acted as a mortgage broker in the origination of the loan. Information pertaining to the identity of the mortgage broker or other person who acted as a mortgage broker in the origination of the loan shall not be considered confidential information. The terms "mortgage broker" and "act as a mortgage broker" shall have the same meaning as provided in G.S. 53-243.01."

SECTION 2. G.S. 45A-5 reads as rewritten:

"§ **45A-5. Duty of lender, purchaser, or seller.**

(a) The lender, purchaser, or seller shall, at or before closing, deliver closing funds, including the gross or net loan funds, if applicable, to the settlement agent either in the form of collected funds or in the form of a negotiable instrument described in ~~G.S. 45A-4(1) through (7),~~G.S. 45A-4(a)(1) through (7), provided that the lender, purchaser, or seller, as applicable, shall cause that negotiable instrument to be honored upon presentment for payment to the bank or other depository institution upon which the instrument is drawn. However, in the case of a refinancing, or any other loan where a right of rescission applies, the lender shall, no later than the business day after the expiration of the rescission period required under the federal Truth-in-Lending Act, 15 U.S.C. § 1601, et seq., cause disbursement of loan funds to the settlement agent in one or more of the forms prescribed by provisions in this Chapter.

(b) The lender shall include in the loan closing instructions to the settlement agent the name of the mortgage broker or other person, if any, who acted as a mortgage broker in the origination of the loan."

SECTION 3. This act is effective when it becomes law and applies to deeds of trust registered on or after April 1, 2008.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 7:52 a.m. on the 5th day of July, 2007.

Session Law 2007-177 **House Bill 625**

AN ACT TO RENAME MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES AND TO MAKE OTHER CONFORMING AND STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-181(a) reads as rewritten:

"§ **122C-181. Secretary's jurisdiction over State facilities.**

(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

(1) ~~For the mentally ill:~~Psychiatric Hospitals:
  a. Cherry ~~Hospital;~~Hospital.
  b. Dorothea Dix ~~Hospital;~~ Hospital.
  c. John Umstead ~~Hospital; and~~ Hospital.
  d. Broughton ~~Hospital; and~~Hospital.

(2) ~~For the mentally retarded:~~Developmental Centers:
  a. Caswell ~~Center;~~Developmental Center.
  ~~b. O'Berry Center;~~
  b1. J. Iverson Riddle Developmental Center.
  c. Murdoch ~~Center;~~Developmental Center.
  ~~d. Western Carolina Center; and~~
  ~~e. Black Mountain Center; and~~

(3) ~~For substance abusers:~~Alcohol and Drug Treatment Centers:
  a. Walter B. Jones Alcohol and Drug Abuse Treatment ~~Center at Greenville;~~Center.
  ~~b. Alcohol and Drug Abuse Treatment Center at John Umstead Hospital; and~~

c. Julian F. Keith Alcohol and Drug Abuse Treatment ~~Center; and~~Center.
d. R.J. Blackley Alcohol and Drug Treatment Center.

(4) ~~As special care facilities:~~Neuro-Medical Treatment Centers:
~~a. North Carolina Special Care Center;~~
~~b. Whitaker School; and~~
~~c. Wright School.~~
d. Black Mountain Neuro-Medical Treatment Center.
e. O'Berry Neuro-Medical Treatment Center.
f. Longleaf Neuro-Medical Treatment Center.

(5) Residential Programs for Children:
a. Whitaker School.
b. Wright School."

SECTION 2. G.S. 122C-181(a)(1), as amended by Section 1 of this act, reads as rewritten:

"(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

(1) Psychiatric Hospitals:
a. Cherry Hospital.
a1. Central Regional Hospital.
~~b. Dorothea Dix Hospital.~~
~~c. John Umstead Hospital.~~
d. Broughton Hospital."

SECTION 3. G.S. 122C-430.30 reads as rewritten:

"Part 2A. Broughton Hospital Joint Security Force.

"§ **122C-430. Joint security force.**

The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Broughton Hospital, North Carolina School for the ~~Deaf,~~ Deaf at Morganton (K-12), Western Regional Vocational Rehabilitation Facility, ~~Western Carolina Center,~~ J. Iverson Riddle Developmental Center, and the surrounding grounds and land adjacent to Broughton Hospital allocated to the Department of Agriculture and Consumer Services, all in Burke County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named facilities. These special police officers may arrest persons outside the territory of the named institutions but within the confines of Burke County when the person arrested has committed a criminal offense within that territory for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory."

SECTION 4. G.S. 108A-101(m) reads as rewritten:

"(m) The word "neglect" refers to a disabled adult who is either living alone and not able to provide for himself or herself the services which are necessary to maintain ~~his~~ the person's mental or physical health or is not receiving services from ~~his~~ the person's caretaker. A person is not receiving services from his caretaker if, among other things and not by way of limitation, ~~he~~ the person is a resident of one of the ~~State-owned hospitals for the mentally ill,~~State-owned psychiatric hospitals listed in

G.S. 122C-181(a)(1), ~~centers for the mentally retarded or North Carolina Special Care Center~~ the State-owned Developmental Centers listed in G.S. 122C-181(a)(2), or the State-owned Neuro-Medical Treatment Centers listed in G.S. 122C-181(a)(3), ~~he~~ the person is, in the opinion of the professional staff of that ~~hospital or center,~~State-owned facility, mentally incompetent to give ~~his~~ consent to medical treatment, ~~he~~ the person has no legal guardian appointed pursuant to Chapter 35A, or guardian as defined in G.S. 122C-3(15), and ~~he~~ the person needs medical treatment."

SECTION 5. Section 2 of this act becomes effective when the Dorothea Dix Hospital is closed and is no longer serving psychiatric patients. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:00 a.m. on the 5th day of July, 2007.

Session Law 2007-178 **House Bill 1354**

AN ACT TO CREATE A MOTOR VEHICLE CHOP SHOP LAW REGARDING THE RECEIVING, POSSESSION, AND DISTRIBUTION OF STOLEN OR ALTERED MOTOR VEHICLES AND MOTOR VEHICLE PARTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ **14-72.7. Chop shop activity.**

(a) A person is guilty of a Class H felony if that person knowingly engages in any of the following activities, without regard to the value of the property in question:

(1) Altering, destroying, disassembling, dismantling, reassembling, or storing any motor vehicle or motor vehicle part the person knows to be illegally obtained by theft, fraud, or other illegal means.

(2) Permitting a place to be used for any activity prohibited by this section, where the person either owns or has legal possession of the place, and knows that the place is being used for any activity prohibited by this section.

(3) Purchasing, disposing of, selling, transferring, receiving, or possessing a motor vehicle or motor vehicle part with the knowledge that the vehicle identification number of the motor vehicle, or vehicle part identification number of the vehicle part, has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed.

(4) Purchasing, disposing of, selling, transferring, receiving, or possessing a motor vehicle or motor vehicle part to or from a person engaged in any activity prohibited by this section, knowing that the person is engaging in that activity.

(b) Innocent Activities. – The provisions of this section shall not apply to either of the following:

(1) Purchasing, disposing of, selling, transferring, receiving, possessing, crushing, or compacting a motor vehicle or motor vehicle part in good faith and without knowledge of previous illegal activity in regard to

that vehicle or part, as long as the person engaging in the activity does not remove a vehicle identification number or vehicle part identification number before or during the activity.

(2) Purchasing, disposing of, selling, transferring, receiving, possessing, crushing, or compacting a motor vehicle or motor vehicle part after law enforcement proceedings are completed or as a part of law enforcement proceedings, as long as the activity is not in conflict with law enforcement proceedings.

(c) Civil Penalty. – Any court with jurisdiction of a criminal prosecution under this section may also assess a civil penalty. The clear proceeds of the civil penalties shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The civil penalty shall not exceed three times the assets obtained by the defendant as a result of violations of this section.

(d) Private Actions. – Any person aggrieved by a violation of this section may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation expenses, costs of suit, and any attorneys' fees as may be provided by law.

(e) Seizure and Forfeiture. – Any instrumentality possessed or used to engage in the activities prohibited by this section are subject to the seizure and forfeiture provisions of G.S. 14-86.1. The real property of a place used to engage in the activities prohibited by this section is subject to the abatement and forfeiture provisions of Chapter 19 of the General Statutes.

(f) Definitions. – For the purposes of this section, the following definitions apply:

(1) Instrumentality. – Motor vehicle, motor vehicle part, other conveyance, tool, implement, or equipment possessed or used in the activities prohibited under this section.

(2) Vehicle identification number. – A number, a letter, a character, a datum, a derivative, or a combination thereof, used by the manufacturer or the Division of Motor Vehicles for the purpose of uniquely identifying a motor vehicle.

(3) Vehicle part identification number. – A number, a letter, a character, a datum, a derivative, or a combination thereof, used by the manufacturer for the purpose of uniquely identifying a motor vehicle part."

SECTION 2. G.S. 14-86.1(a) reads as rewritten:

"(a) All conveyances, including vehicles, watercraft or aircraft, used to unlawfully conceal, convey or transport property in violation of G.S. 14-71, 14-71.1, or 20-106, or used by any person in the commission of armed or common-law robbery, or used in violation of G.S. 14-72.7, or used by any person in the commission of any larceny when the value of the property taken is more than two thousand dollars ($2,000) shall be subject to forfeiture as provided herein, except that:

(1) No conveyance used by any person as a common carrier in the transaction of the business of the common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in custody or control of such conveyance was a consenting party or privy to a violation that may subject the conveyance to forfeiture under this section;

(2) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or any state;

(3) No conveyance shall be forfeited pursuant to this section unless the violation involved is a felony;

(4) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission;

(5) No conveyance shall be forfeited under the provisions of this section unless the owner knew or had reason to believe the vehicle was being used in the commission of any violation that may subject the conveyance to forfeiture under this section;

(6) The trial judge in the criminal proceeding which may subject the conveyance to forfeiture may order the seized conveyance returned to the owner if he finds forfeiture inappropriate. If the conveyance is not returned to the owner the procedures provided in subsection (e) shall apply.

As used in this section concerning a violation of G.S. 14-72.7, the term "conveyance" includes any "instrumentality" as defined in that section."

SECTION 3. G.S. 19-1 reads as rewritten:

"§ **19-1. What are nuisances under this Chapter.**

(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance.

(b) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated acts which create and constitute a breach of the peace shall constitute a nuisance.

(b1) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated activities or conditions which violate a local ordinance regulating sexually oriented businesses so as to contribute to adverse secondary impacts shall constitute a nuisance.

(b2) The erection, establishment, continuance, maintenance, use, ownership, or leasing of any building or place for the purpose of carrying on, conducting, or engaging in any activities in violation of G.S. 14-72.7.

(c) The building, place, vehicle, or the ground itself, in or upon which a nuisance as defined in subsection (a), (b), or (b1) of this section is carried on, and the furniture, fixtures, and contents, are also declared a nuisance, and shall be enjoined and abated as hereinafter provided."

SECTION 4. G.S. 19-6.1 reads as rewritten:

"§ **19-6.1. Forfeiture of real property.**

In all actions where a preliminary injunction, permanent injunction, or an order of abatement is issued pursuant to this Article in which the nuisance consists of or includes

at least two prior occurrences within five years of the manufacture, possession with intent to sell, or sale of controlled substances as defined by the North Carolina Controlled Substances Act, ~~or~~ two prior occurrences of the possession of any controlled substance included within Schedule I or II of that Act, or two prior convictions within five years of violation of G.S. 14-72.7, the real property on which the nuisance exists or is maintained is subject to forfeiture in accordance with this section. In the case of the two prior convictions of G.S. 14-72.7, the convictions shall not arise out of the same transaction or occurrence.

If all of the owners of the property are defendants in the action, the plaintiff, other than a plaintiff who is a private citizen, may request forfeiture of the real property as part of the relief sought. If forfeiture is requested, and if jurisdiction over all defendant owners is established, upon judgment against the defendant or defendants, the court shall order forfeiture as follows:

(1) If the court finds by clear and convincing evidence that all the owners either (i) have participated in maintaining the nuisance on the property, or (ii) prior to the action had written notice from the plaintiff, or any governmental agent or entity authorized to bring an action pursuant to this Chapter, that the nuisance existed or was maintained on the property and have not made good faith efforts to stop the nuisance from occurring or recurring, the court shall order that the property be forfeited;

(2) If the court finds that one or more of the owners did not participate in maintaining the nuisance on the property or did not have written notice from the plaintiff prior to the action that the nuisance existed or was maintained on the property, the court shall not order forfeiture of the property immediately upon judgment. However, if after judgment and an order directing the defendants to abate the nuisance, the nuisance either continues, begins again, or otherwise recurs within five years of the order and the defendants have not made good faith efforts to abate the nuisance, the plaintiff may petition the court for forfeiture. Upon such petition, the defendant owner or owners shall be given notice and an opportunity to appear and be heard at a hearing to determine the continuation or recurrence of the nuisance. If, in this hearing (i) the plaintiff establishes by clear and convincing evidence that the nuisance, with the owner's or owners' knowledge, has either continued, begun again, or otherwise recurred, and (ii) the defendants fail to establish that they have made and are continuing to make good faith efforts to abate the nuisance, the court shall order that the property be forfeited.

For the purposes of this section, factors which may evidence good faith by the defendant to abate the nuisance include but are not limited to (i) cooperation with law enforcement authorities to abate the nuisance; (ii) lease restrictions prohibiting the illegal possession or sale of narcotic drugs and an action to evict a tenant for any violations of the lease provision; (iii) a criminal record check of prospective tenants; and (iv) reference checks of prior residency of prospective tenants.

Upon an order of forfeiture, title to the property shall vest in the school board of the county in which the property is located. If at the time of forfeiture the property is subject to a lien or security interest of a person not participating in the maintenance of the nuisance, the school board shall either (i) pay an amount to that person satisfying the

lien or security interest; or (ii) sell the property and satisfy the lien or security interest from the proceeds of the sale. If the property is not subject to any lien or security interest at the time of forfeiture, the school board may hold, maintain, lease, sell, or otherwise dispose of the property as it sees fit.

Upon the filing of the action, the plaintiff may file a notice of lis pendens in the official records of the county where the property is located. If the plaintiff files a notice of lis pendens, any person purchasing or obtaining an interest in the property thereafter shall be considered to have notice of the alleged nuisance, and shall forfeit his interest in the property upon a judgment of forfeiture in favor of the plaintiff.

If in the same action in which real property is forfeited the court finds that a tenant or occupant of the property participated in or maintained the nuisance, the lease or other title under which the tenant or occupant holds is void, and the right of possession vests in the new owner. Upon forfeiture, the rights of innocent tenants occupying separate units of the property who were not involved in the nuisance at the time the action was filed shall be in accordance with any relevant lease provisions in effect at the time or, in the absence of relevant lease provisions, in accordance with the law applying to other tenants or occupants of property that is sold, foreclosed upon, or otherwise obtained by new owners."

SECTION 5. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 6. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:02 a.m. on the 5th day of July, 2007.

Session Law 2007-179 **Senate Bill 659**

AN ACT TO PROVIDE THAT ELECTED OFFICIALS WHO ARE MEMBERS OF THE LEGISLATIVE RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, OR THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM SHALL FORFEIT THEIR PENSIONS UPON CONVICTION OF A STATE OR FEDERAL OFFENSE INVOLVING PUBLIC CORRUPTION OR A FELONY VIOLATION OF ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 1A of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-4.33. Forfeiture of retirement benefits for certain felonies.**

(a) Except as provided in G.S. 120-4.12(f), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under the federal laws listed in subsection (b) of this section or the laws of this State listed in subsection (c) of this section if all of the following apply:

(1) The federal or State offense is committed while serving as a member of the General Assembly.

(2) The conduct on which the federal or State offense is based is directly related to the member's service as a member of the General Assembly.

(b) The federal offenses covered by this section are as follows:

(1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

(c) The offenses under the laws of this State covered by this section are as follows:

(1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).

(2) Perjury or false information as follows:

a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.

b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.

c. Perjury under Article 22A of Chapter 163 of the General Statutes.

(d) All monies forfeited under this section shall be remitted to the Civil Penalty and Forfeiture Fund."

SECTION 1.(b) G.S. 120-4.12 is amended by adding a new subsection to read:

"(f) If a member who has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 120-4.33 for acts committed after July 1, 2007, then that member shall forfeit all benefits under this System. If a member who has vested in this

System on July 1, 2007, is convicted of an offense listed in G.S. 120-4.33 for acts committed after July 1, 2007, then that member is not entitled to any creditable service that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service earned from a position not as a member of the General Assembly."

SECTION 2.(a) Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

"**§ 128-38.4. Forfeiture of retirement benefits for certain felonies.**

(a) Except as provided in G.S. 128-26(w), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under the federal laws listed in subsection (b) of this section or the laws of this State listed in subsection (c) of this section if all of the following apply:

(1) The federal or State offense is committed while serving as an elected government official.

(2) The conduct on which the federal or State offense is based is directly related to the member's service as an elected government official.

(b) The federal offenses covered by this section are as follows:

(1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

(c) The offenses under the laws of this State covered by this section are as follows:

(1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).

(2) Perjury or false information as follows:

a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.

b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.

c. Perjury under Article 22A of Chapter 163 of the General Statutes.

(d) All monies forfeited under this section shall be remitted to the Civil Penalty and Forfeiture Fund."

SECTION 2.(b) G.S. 128-26 is amended by adding a new subsection to read:

"(w) If a member who is an elected government official and has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts committed after July 1, 2007, then that member shall forfeit all benefits under this System. If a member who is an elected government official and has vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts committed after July 1, 2007, then that member is not entitled to any creditable service that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service earned from a position not as an elected government official."

SECTION 3.(a) Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-18.10. Forfeiture of retirement benefits for certain felonies.**

(a) Except as provided in G.S. 135-4(gg), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under the federal laws listed in subsection (b) of this section or the laws of this State listed in subsection (c) of this section if all of the following apply:

(1) The federal or State offense is committed while serving as an elected government official.

(2) The conduct on which the federal or State offense is based is directly related to the member's service as an elected government official.

(b) The federal offenses covered by this section are as follows:

(1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

(c) The offenses under the laws of this State covered by this section are as follows:

(1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).

(2) Perjury or false information as follows:

a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.

b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.

c. Perjury under Article 22A of Chapter 163 of the General Statutes.

(d) All monies forfeited under this section shall be remitted to the Civil Penalty and Forfeiture Fund."

SECTION 3.(b) G.S. 135-4 is amended by adding a new subsection to read:

"(gg) If a member who is an elected government official and has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts committed after July 1, 2007, then that member shall forfeit all benefits under this System. If a member who is an elected government official and has vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts committed after July 1, 2007, then that member is not entitled to any creditable service that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service earned from a position not as an elected government official."

SECTION 4.(a) Article 4 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-75.1. Forfeiture of retirement benefits for certain felonies.**

"(a) Except as provided in G.S. 135-56(g), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under the federal laws listed in subsection (b) of this section or the laws of this State listed in subsection (c) of this section if all of the following apply:

(1) The federal or State offense is committed while serving as a justice, judge, district attorney, or clerk of superior court.

(2) The conduct on which the federal or State offense is based is directly related to the member's service as a justice, judge, district attorney, or clerk of superior court.

(b) The federal offenses covered by this section are as follows:

(1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606

(Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

(c) The offenses under the laws of this State covered by this section are as follows:

(1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).

(2) Perjury or false information as follows:

a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.

b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.

c. Perjury under Article 22A of Chapter 163 of the General Statutes.

(d) All monies forfeited under this section shall be remitted to the Civil Penalty and Forfeiture Fund."

SECTION 4.(b) G.S. 135-56 is amended by adding a new subsection to read:

"(g) If a member who has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that member shall forfeit all benefits under this System. If a member who has vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that member is not entitled to any creditable service that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service earned from a position not as a justice, judge, district attorney, or clerk of superior court."

SECTION 5. This act becomes effective July 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:05 a.m. on the 5th day of July, 2007.

Session Law 2007-180 **Senate Bill 1424**

AN ACT TO ALLOW EARTHDOG TRIALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-362.2 reads as rewritten:

"§ **14-362.2. Dog fighting and baiting.**

(a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.

(d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

(e) This section does not prohibit the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of the dogs. Quarry at an earthdog trial shall at all times be kept separate from the dogs by a sturdy barrier, such as a cage, and have access to food and water."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. The Commissioner of Agriculture may take action before that date to approve entities as permitted by G.S. 14-362.2(e) as enacted by this act.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:08 a.m. on the 5th day of July, 2007.

Session Law 2007-181 **Senate Bill 21**

AN ACT TO CLARIFY THAT THE STATUTE PROHIBITING DOG FIGHTING AND BAITING DOES NOT APPLY TO THE USE OF HERDING DOGS WORKING WITH DOMESTICATED LIVESTOCK.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-362.2 reads as rewritten:

"§ **14-362.2. Dog fighting and baiting.**

(a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with

another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.

(d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

(f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes."

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:10 a.m. on the 5th day of July, 2007.

Session Law 2007-182 **House Bill 720**

AN ACT TO CHANGE THE NAME OF THE DIVISION OF FACILITY SERVICES AND THE COMMISSION FOR HEALTH SERVICES TO BETTER REFLECT THE FUNCTIONS AND DUTIES PERFORMED BY THE DIVISION AND THE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. In order to better reflect the functions and duties performed by the Division of Facility Services of the Department of Health and Human Services, the Division of Facility Services is renamed the Division of Health Service Regulation. Wherever the name "Division of Facility Services" appears in the General Statutes, the Revisor of Statutes shall replace "Division of Facility Services" with "Division of Health Service Regulation."

SECTION 1.1. The following sections of the General Statutes are amended by deleting "Division of Facilities Services" and substituting "Division of Health Service Regulation": G.S. 90-21.15, 131D-34, 131E-129, and 143-519.

SECTION 1.2. The following section of the General Statutes is amended by deleting "Commission of Health Services" and substituting "Commission for Public Health": G.S. 90-210.129.

SECTION 1.3 The following sections of the General Statutes are amended by deleting "Health Services Commission" and substituting "Commission for Public Health": G.S. 7B-1413, 131D-9, and 131E-113.

SECTION 2. In order to better reflect the functions and duties performed by the Commission for Health Services of the Department of Health and Human Services, the Commission for Health Services is renamed the Commission for Public Health. Wherever the name "Commission for Health Services" appears in the General Statutes,

the Revisor of Statutes shall replace "Commission for Health Services" with "Commission for Public Health."

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:10 a.m. on the 5th day of July, 2007.

Session Law 2007-183 **House Bill 786**

AN ACT TO ENSURE DISTRICT ATTORNEYS RECEIVE ALL NECESSARY INFORMATION FROM LAW ENFORCEMENT AGENCIES AS RECOMMENDED BY THE HOUSE INTERIM STUDY COMMITTEE ON CAPITAL PUNISHMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-903 reads as rewritten:

"§ **15A-903. Disclosure of evidence by the State – Information subject to disclosure.**

(a) Upon motion of the defendant, the court must order the State to:

(1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. Oral statements shall be in written or recorded form. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein.

(2) Give notice to the defendant of any expert witnesses that the State reasonably expects to call as a witness at trial. Each such witness shall prepare, and the State shall furnish to the defendant, a report of the results of any examinations or tests conducted by the expert. The State shall also furnish to the defendant the expert's curriculum vitae, the expert's opinion, and the underlying basis for that opinion. The State shall give the notice and furnish the materials required by this subsection within a reasonable time prior to trial, as specified by the court.

(3) Give the defendant, at the beginning of jury selection, a written list of the names of all other witnesses whom the State reasonably expects to call during the trial. Names of witnesses shall not be subject to disclosure if the State certifies in writing and under seal to the court that to do so may subject the witnesses or others to physical or substantial economic harm or coercion, or that there is other particularized, compelling need not to disclose. If there are witnesses that the State did not reasonably expect to call at the time of the

provision of the witness list, and as a result are not listed, the court upon a good faith showing shall allow the witnesses to be called. Additionally, in the interest of justice, the court may in its discretion permit any undisclosed witness to testify.

(b) If the State voluntarily provides disclosure under G.S. 15A-902(a), the disclosure shall be to the same extent as required by subsection (a) of this section.

(c) Upon request by the State, a law enforcement or prosecutorial agency shall make available to the State a complete copy of the complete files related to the investigation of the crimes committed or the prosecution of the defendant for compliance with this section and any disclosure under G.S. 15A-902(a)."

SECTION 2. This act becomes effective December 1, 2007, and applies to cases where the trial date set pursuant to G.S. 7A-49.4 is on or after that date. Nothing in this act shall be construed to abrogate any judicial rulings or decisions prior to the effective date of this act that required a law enforcement agency to make available to the State a complete copy of the complete files related to the investigation of crimes committed or the prosecution of a defendant. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:10 a.m. on the 5th day of July, 2007.

Session Law 2007-184 **House Bill 765**

AN ACT TO UPDATE THE LAW REGARDING TESTAMENTARY ADDITIONS TO TRUSTS, AND TO CODIFY THE DOCTRINES OF INCORPORATION BY REFERENCE AND ACTS OF INDEPENDENT SIGNIFICANCE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 31 of the General Statutes reads as rewritten:

"Article 8.

"~~Devise or Bequest to Trustee of an Existing Trust.~~ Testamentary Additions to Trusts.

"§ **31-47. ~~Devise or bequest to trustee of an existing trust.~~Testamentary additions to trusts.**

~~A devise or bequest in a will duly executed pursuant to the provisions of this Chapter may be made in form or substance to the trustee of any trust, including an existing testamentary trust, if established in writing prior to the execution of such will. Such devise or bequest shall not be invalid because the trust is amendable or revocable or both by the settlor or any other person or persons; nor because the trust instrument or any amendment thereto was not executed in the manner required for wills, nor because the trust was amended after execution of the will. Unless the will provides otherwise, such devise or bequest shall operate to dispose of property under the terms of the trust as they appear in writing at the testator's death and the property shall not be deemed held under a testamentary trust. An entire revocation of the trust prior to the testator's death shall invalidate the devise or bequest.~~

(a) A will may validly devise property to:

(1) The trustee of a trust established before the testator's death by the testator, by the testator and some other person, or by some other person, including a trust authorized by G.S. 36C-4-401.1; or

(2) The trustee of a trust to be established at the testator's death, if the trust is identified in the testator's will and its terms are set forth in a written instrument executed before or concurrently with the execution of the testator's will, regardless of the existence, size, or character of the corpus of the trust during the testator's lifetime.

The devise is not invalid because the trust is amendable or revocable, or because the trust instrument or any amendment thereto was not executed in the manner required for wills, or because the trust was amended after the execution of the testator's will or after the testator's death. A revocable trust to which property is first transferred under subdivision (2) of this subsection is an inter vivos trust and not a testamentary trust and, as of the date of the execution of the trust instrument, is subject to Article 6 of Chapter 36C of the General Statutes.

(b) Unless the testator's will provides otherwise, property devised to the trustee of a trust described in subsection (a) of this section is not held under a testamentary trust of the testator, but it becomes a part of the trust to which it is devised, and shall be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments thereto made before or after the testator's death.

(c) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise to lapse.

(d) A devise to a trust shall be construed as a devise to the trustee of that trust.

(e) For purposes of this section, "devise," when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

(f) Nothing in this section alters, amends, or in any manner affects the application of the doctrine of acts of independent significance."

SECTION 2. Chapter 31 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"Incorporation by Reference; Acts of Independent Significance.

"**§ 31-51. Incorporation by reference.**

A writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

"**§ 31-52. Acts and events of independent significance.**

A will may dispose of property by reference to acts and events that have significance apart from their effect upon the disposition made by the will, whether they occur before or after the execution of the will or before or after the testator's death. These acts and events may include the execution or revocation of another individual's will and the safekeeping of items in a secured depository."

SECTION 3. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to Sections 2-510 (Incorporation by Reference), and 2-511 (Testamentary Additions to Trusts) of the Uniform Probate Code and all explanatory comments of the drafters of this act as the Revisor deems appropriate.

SECTION 4. This act is effective when it becomes law and applies to estates of decedents dying on or after that date regardless of when the will or instrument was executed.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:12 a.m. on the 5th day of July, 2007.

Session Law 2007-185 **House Bill 1370**

AN ACT TO CLARIFY THAT THE HIGH-UNIT-COST THRESHOLD DOES NOT APPLY TO PLANNING GRANTS AND TECHNICAL ASSISTANCE GRANTS MADE BY THE CLEAN WATER MANAGEMENT TRUST FUND FOR WASTEWATER COLLECTION SYSTEMS AND WASTEWATER TREATMENT WORKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-254(d) reads as rewritten:

"(d) Wastewater Limits. – A wastewater collection system project or a wastewater treatment works project is eligible for a grant under this Article only if it is a high-unit-cost project, as defined in G.S. 159G-20. A planning grant or a technical assistance grant for a regional wastewater collection system or a regional wastewater treatment works is not subject to the high-unit-cost threshold. A grant made under this Article for a wastewater collection system project or a wastewater treatment works project is subject to the cost limits and recipient limits set in G.S. 159G-36 for a grant awarded from the Wastewater Reserve."

SECTION 2. This act is effective when it becomes law and applies to applications for planning grants and technical assistance grants received by the Clean Water Management Trust Fund on or after 1 January 2007.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 8:18 a.m. on the 5th day of July, 2007.

Session Law 2007-186 **House Bill 1464**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ADOPT RULES PROVIDING FOR EXCUSED ABSENCES FROM SCHOOL FOR LEGISLATIVE AND GOVERNOR'S PAGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-379 reads as rewritten:

"§ **115C-379. Method of enforcement.**

It shall be the duty of the State Board of Education to formulate ~~such rules and regulations as~~ the rules that may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe (i) what shall constitute unlawful absence, (ii) what causes may constitute legitimate excuses for temporary nonattendance due to a student's physical or mental inability to ~~attend,~~attend or a student's participation in a valid educational opportunity such as service as a legislative

page or a Governor's page, and (iii) under what circumstances teachers, principals, or superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State. It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a Class 3 misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2007-2008 school year.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Became law upon approval of the Governor at 9:50 a.m. on the 7th day of July, 2007.

Session Law 2007-187 **Senate Bill 583**

AN ACT TO MAKE CLARIFYING AND OTHER CHANGES IN THE PUBLIC HEALTH LAW RELATED TO THE MEDICAL EXAMINER SYSTEM, INJURY CONTROL EFFORTS, TIMELINESS OF REPORTS BY SCHOOLS REGARDING IMMUNIZATIONS, AND THE CREATION, EXTENSION, AND DISSOLUTION OF SANITARY DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-47 reads as rewritten:

"§ **130A-47. Creation by Commission.**

(a) For the purpose of preserving and promoting the public health and welfare, the Commission may create sanitary districts without regard for county, township or municipal lines. However, no municipal corporation or any part of the territory in a municipal corporation shall be included in a sanitary district except at the request of the governing board of the municipal corporation. If the municipal corporation has not levied any tax nor performed any official act nor held any elections within a period of four years preceding the date of the petition for the sanitary district, a request of the governing board shall not be required.

(b) For the purposes of this Part, the term 'Department' means the Department of Environment and Natural Resources, and the term 'Secretary' means the Secretary of Environment and Natural Resources."

SECTION 2. G.S. 130A-155(c) reads as rewritten:

"(c) ~~Within 60 calendar days after the commencement of a new school year, the~~ The school shall file an annual immunization report with the ~~Department.~~Department by November 1. The child care facility shall file an immunization report annually with the Department. The report shall be filed on forms prepared by the Department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption."

SECTION 3. Article 7 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 6. Injury Prevention.

"§ **130A-224. Department to establish program.**

To protect and enhance the public health, welfare, and safety, the Department shall establish and administer a comprehensive statewide injury prevention program. The Department shall designate the Division of Public Health as the lead agency for injury prevention activities. The Division of Public Health shall:

(1) Develop a comprehensive State plan for injury prevention;

(2) Maintain an injury prevention program that includes data collection, surveillance, and education and promotes injury control activities; and

(3) Develop collaborative relationships with other State agencies and private and community organizations to establish programs promoting injury prevention."

SECTION 4. G.S. 130A-382 reads as rewritten:

"§ **130A-382. County medical examiners; appointment; term of office; vacancies.**

One or more county medical examiners for each county shall be appointed by the Chief Medical Examiner for a three-year term. County medical examiners shall be appointed from a list of physicians licensed to practice medicine in this State submitted by the medical society of the county in which the appointment is to be made. If no names are submitted by the society, the Chief Medical Examiner shall appoint one or more medical examiners from physicians in the county licensed to practice medicine in this State. In the event no licensed physician in a county accepts an appointment, the Chief Medical Examiner may appoint as acting county medical examiner one or more physicians licensed to practice medicine in this State from other ~~counties or the local registrar, deputy registrar, subregistrar or coroner.~~counties, a licensed physician assistant, a nurse, a coroner, or an individual who has taken an approved course of training as required by the Chief Medical Examiner. ~~In the event a medical examiner is unable to serve in a particular case or for a temporary period of time, the Chief Medical Examiner shall designate a physician licensed to practice medicine in this State, the local registrar, deputy registrar, subregistrar or coroner~~ The acting county medical examiner shall have all the duties and authority of the physician medical examiner except to perform autopsies. A medical examiner may serve more than one county. The Chief Medical Examiner may take jurisdiction in any case or appoint another medical examiner to do so."

SECTION 5. G.S. 130A-381 reads as rewritten:

"§ **130A-381. Additional services and facilities.**

In order to provide proper facilities for investigating deaths as authorized in this Part, the Chief Medical Examiner may arrange for the use of existing public or private laboratory facilities. Each county shall provide or contract for an appropriate facility for the examination and storage of bodies under Medical Examiner jurisdiction. The Chief Medical Examiner may contract with qualified persons to perform or to provide support services for autopsies and other studies and investigations."

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:00 p.m. on the 8th day of July, 2007.

Session Law 2007-188 **House Bill 554**

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR ASSAULT ON A PATIENT IN A HEALTH CARE FACILITY OR RESIDENT OF A RESIDENTIAL CARE FACILITY WHEN THE CONDUCT EVINCES A PATTERN OF BEHAVIOR, IS WILLFUL OR CULPABLY NEGLIGENT, AND CAUSES BODILY INJURY TO THE PATIENT OR RESIDENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-32.2(b) reads as rewritten:

"(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment.

(1) A violation of subsection (a) above is a Class C felony where intentional conduct proximately causes the death of the patient or resident;

(2) A violation of subsection (a) above is a Class E felony where culpably negligent conduct proximately causes the death of the patient or resident;

(3) A violation of subsection (a) above is a Class F felony where such conduct is willful or culpably negligent and proximately causes serious bodily injury to the patient or ~~resident.~~ resident;

(4) A violation of subsection (a) is a ~~Class A1 misdemeanor~~ Class H felony where such conduct evinces a pattern of conduct and the conduct is willful or culpably negligent and proximately causes bodily injury to a patient or resident."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:05 p.m. on the 8th day of July, 2007.

Session Law 2007-189 **House Bill 584**

AN ACT MAKING EMPLOYEES AND PROSPECTIVE EMPLOYEES OF THE OFFICE OF INFORMATION TECHNOLOGY SERVICES SUBJECT TO BACKGROUND INVESTIGATIONS; EXEMPTING FROM THE PUBLIC RECORDS LAWS THE CRIMINAL HISTORIES OF AGENCY SECURITY LIAISONS AND PERSONNEL IN THE OFFICE OF STATE AUDITOR, AND MAKING CONFORMING CHANGES, AND TO CHANGE THE MEMBERSHIP OF THE INFORMATION TECHNOLOGY ADVISORY BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.77 is amended by adding a new subsection to read:

"(g) The State Chief Information Officer may require background investigations of any employee or prospective employee, including a criminal history record check, which may include a search of the State and National Repositories of Criminal Histories based on the person's fingerprints. A criminal history record check shall be conducted

by the State Bureau of Investigation upon receiving fingerprints and other information provided by the employee or prospective employee. If the employee or prospective employee has been a resident of the State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State Chief Information Officer and is not a public record under Chapter 132 of the General Statutes."

SECTION 2. G.S. 147-33.113(a)(4) reads as rewritten:

"(4) Designating an agency liaison in the information technology area to coordinate with the State Chief Information Officer. The liaison shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon its receiving fingerprints from the liaison. If the liaison has been a resident of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State Chief Information Officer and the head of the agency. In addition, all personnel in the Office of State Auditor who are responsible for information technology security reviews pursuant to G.S. 147-64.6(c)(18) shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon receiving fingerprints from the personnel designated by the State Auditor. For designated personnel who have been residents of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background reports shall be provided to the State Auditor. Criminal histories provided pursuant to this subdivision are not public records under Chapter 132 of the General Statutes."

SECTION 3. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.20. Criminal record checks for the Office of Information Technology Services.**

(a) The Department of Justice may provide to the Office of Information Technology Services from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Office of Information Technology Services. The Office of Information Technology Services shall provide to the Department of Justice, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national

criminal history record check. The Office of Information Technology Services shall keep all information obtained pursuant to this section confidential.

(b) The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 4. G.S. 147-33.72G reads as rewritten:

"§ **147-33.72G. Information Technology Advisory Board.**

(a) Creation; Membership. – The Information Technology Advisory Board is established and shall be located within the Office of Information Technology Services for organizational, budgetary, and administrative purposes. The Board shall consist of ~~12~~ 9 members, ~~four~~ two appointed by the Governor, ~~four~~ two appointed by the President Pro Tempore of the Senate, and ~~four~~ two appointed by the Speaker of the House of ~~Representatives.~~Representatives, two appointed by the chair, and the State Controller ex officio. ~~All appointments shall be from among persons knowledgeable in the subject area and having experience with State government or information technology deployment within large organizations. Each member shall serve at the pleasure of the officer who appointed the member.~~ The Governor shall designate a chair from among the membership.

(a1) Of the initial appointments, one person each appointed by the Governor, the president Pro Tempore of the Senate, the Speaker of the House of Representatives and the chair shall serve a term of one year beginning October 1, 2007, and one person appointed by each shall serve a term of two years beginning October 1, 2007. All succeeding appointments shall be for terms of two years. Members shall not serve for more than two successive terms.

(a2) Vacancies shall be filled by the appointing authority for the unexpired portion of the term in which they occur.

(a3) The members appointed by the Governor shall be heads of State agencies or managers whose primary responsibilities do not include information technology.

(a4) The members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be persons with experience in the deployment, use, maintenance, and replacement of information technology. Of the members appointed by the President Pro Tempore of the Senate, one member shall be from local government, and one member shall be from the private sector. Of the members appointed by the Speaker of the House of Representatives, one member shall be from primary or secondary education, and one member shall be from the private sector.

(a5) The two members appointed by the chair shall be chief information officers of State agencies or managers whose primary responsibilities include information technology.

(b) Conflicts of Interest. – Members of the Advisory Board shall not serve on the board of directors or other governing body of, be employed by, or receive any remuneration of any kind from any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State of North Carolina.

No member of the Advisory Board shall vote on an action affecting solely that person's State agency.

(c) Powers and Duties. – The Board shall:

(1) Review and comment on the State Information Technology Plan developed by the State Chief Information Officer under G.S. 147-33.72B(b).
(2) Review and comment on the information technology plans of the executive agencies prepared under G.S. 147-33.72B(c).
(3) Review and comment on the statewide technology initiatives developed by the State Chief Information Officer.
(4) Advise the State Chief Information Officer on the development of statewide information technology programs and services.

(d) Meetings. – The Information Technology Advisory Board shall adopt bylaws containing rules governing its meeting procedures. The Board shall meet at least quarterly. The Office of Information Technology Services shall provide administrative staff and facilities for Advisory Board meetings. The expenses of the Board shall be paid from receipts available to the Office of Information Technology Services as requested by the Board. Advisory Board members shall receive per diem, subsistence, and travel allowances as follows:

(1) Commission members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6; and
(2) All other commission members, at the rate established in G.S. 138-5."

SECTION 5. The terms of office of the existing members of the Information Technology Advisory Board expire September 30, 2007.

SECTION 5.1. If Senate Bill 878, 2007 Regular Session, becomes law, then Sections 1, 2, and 3 of this act are repealed so that they are not enacted twice.

SECTION 6. This act is effective when it becomes law, except that Section 4 becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:10 p.m. on the 8th day of July, 2007.

Session Law 2007-190 **House Bill 47**

AN ACT TO CREATE A FELONY OFFENSE FOR PERSONS WHO KNOWINGLY VIOLATE A DOMESTIC VIOLENCE PROTECTIVE ORDER WHILE ARMED WITH A DEADLY WEAPON AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-4.1 reads as rewritten:

"§ **50B-4.1. Violation of valid protective order.**

(a) Except as otherwise provided by law, a person who knowingly violates a valid protective order entered pursuant to this Chapter or who knowingly violates a valid protective order entered by the courts of another state or the courts of an Indian tribe shall be guilty of a Class A1 misdemeanor.

(b) A law enforcement officer shall arrest and take a person into custody without a warrant or other process if the officer has probable cause to believe that the person knowingly has violated a valid protective order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9).

(c) When a law enforcement officer makes an arrest under this section without a warrant, and the party arrested contests that the out-of-state order or the order issued by an Indian court remains in full force and effect, the party arrested shall be promptly provided with a copy of the information applicable to the party which appears on the National Crime Information Center registry by the sheriff of the county in which the arrest occurs.

(d) Unless covered under some other provision of law providing greater punishment, a person who commits a felony at a time when the person knows the behavior is prohibited by a valid protective order as provided in subsection (a) of this section shall be guilty of a felony one class higher than the principal felony described in the charging document. This subsection shall not apply to a person who is charged with or convicted of a Class A or B1 felony or to a person charged under subsection (f) or subsection (g) of this section.

(e) An indictment or information that charges a person with committing felonious conduct as described in subsection (d) of this section shall also allege that the person knowingly violated a valid protective order as described in subsection (a) of this section in the course of the conduct constituting the underlying felony. In order for a person to be punished as described in subsection (d) of this section, a finding shall be made that the person knowingly violated the protective order in the course of conduct constituting the underlying felony.

(f) Unless covered under some other provision of law providing greater punishment, any person who knowingly violates a valid protective order as provided in subsection (a) of this section, after having been previously convicted of three offenses under this Chapter, shall be guilty of a Class H felony.

(g) Unless covered under some other provision of law providing greater punishment, any person who, while in possession of a deadly weapon on or about his or her person or within close proximity to his or her person, knowingly violates a valid protective order as provided in subsection (a) of this section by failing to stay away from a place, or a person, as so directed under the terms of the order, shall be guilty of a Class H felony."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 12:11 p.m. on the 8th day of July, 2007.

Session Law 2007-191 **Senate Bill 812**

AN ACT TO DIRECT THE CHILD FATALITY TASK FORCE TO STUDY ISSUES RELATING TO REQUIRING THE INSTALLATION AND USE OF PASSENGER SAFETY RESTRAINT SYSTEMS ON SCHOOL BUSES.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Child Fatality Task Force shall study and analyze the feasibility of the use of safety restraints by passengers on school buses and school activity buses. In conducting the study, the Task Force shall consider:

(1) A determination whether safety restraints are necessary to enhance the safety of passengers on school buses;

(2) An evaluation of the cost of requiring passenger restraint systems on buses to be purchased, leased, or contracted for use on or after July 1, 2009;

(3) An evaluation of the cost of installing passenger restraint systems on buses currently owned and operated by local boards of education; and

(4) The manner by which the local boards of education may enforce the use of safety restraints by passengers on school buses and school activity buses.

The Task Force shall report its findings and recommendations, including recommended legislation to the 2008 Regular Session of the 2007 General Assembly on or before May 1, 2008.

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:12 p.m. on the 8th day of July, 2007.

Session Law 2007-192 **House Bill 550**

AN ACT TO MODIFY THE LAW PERTAINING TO THE CONFIDENTIALITY OF SCHOOL PERSONNEL FILES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-321 is amended by adding three new subsections to read:

"(a1) Notwithstanding any other provision of this Chapter, information contained in a personnel file that is relevant to possible criminal misconduct may be made available to law enforcement and the district attorney to assist in the investigation of:

(1) A report made to law enforcement pursuant to G.S. 115C-288(g), or

(2) Any report to law enforcement regarding an arson, attempted arson, destruction of, theft from, theft of, embezzlement from, embezzlement of any personal or real property owned by the local board of education.

(a2) The employee shall be given five working days prior written notice of any disclosure under subsection (a1) of this section to permit the employee to apply to the district court for an in camera review prior to the date of disclosure to determine if the information is relevant to the possible criminal misconduct. Failure of the employee to apply for a review shall constitute a waiver by the employee of any relief under this subsection.

(a3) Statements or admissions made by the employee and produced under subsection (a1) of this section shall not be admissible in any subsequent criminal proceeding against the employee."

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

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 12:13 p.m. on the 8th day of July, 2007.

Session Law 2007-193 **House Bill 24**

AN ACT TO PROTECT THE PUBLIC FROM THE HEALTH RISKS OF SECONDHAND SMOKE BY PROHIBITING SMOKING IN BUILDINGS OWNED, LEASED, OR OCCUPIED BY STATE GOVERNMENT; AND TO AUTHORIZE LOCAL GOVERNMENTS TO REGULATE SMOKING IN BUILDINGS AND TRANSPORTATION VEHICLES OWNED, LEASED, OR OCCUPIED BY LOCAL GOVERNMENT AS RECOMMENDED BY THE JUSTUS-WARREN HEART DISEASE AND STROKE PREVENTION TASK FORCE.

Whereas, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and

Whereas, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke; and

Whereas, the 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air, and ventilating smoke cannot eliminate exposure to secondhand smoke; and

Whereas, the Centers for Disease Control and Prevention (CDC) advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

Whereas, exposure to secondhand smoke is costly, costing the nation $10 billion per year, $5 billion in direct medical care costs, and $5 billion in indirect costs according to the 2005 Society of Actuaries; and

Whereas, the vast majority of North Carolinians (77.4% of adults) do not smoke; and

Whereas, the 2006 Surgeon General's Report documents that eliminating indoor smoking fully protects nonsmokers from exposure to secondhand smoke; and

Whereas, North Carolina's General Assembly buildings are smoke-free; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Effective January 1, 2008, Chapter 130A of the General Statutes is amended by adding the following new Article to read:

"Article 23.

"Smoking in Public Places.

"Part 1. Smoking in State Government Buildings.

"**§ 130A-491. Legislative intent.**

It is the intent of the General Assembly to protect the health of individuals working in or visiting State government buildings from the risks related to secondhand smoke.

"**§ 130A-492. Definitions.**

The following definitions apply in this Article:

(1) "Smoking". – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

(2) "State government". – The political unit for the State of North Carolina, including all agencies of the executive, judicial, and legislative branches of government.

(3) "State government building". – A building owned, leased as lessor, or the area leased as lessee and occupied by State government.

"**§ 130A-493. Smoking in State government buildings prohibited.**

(a) Notwithstanding Article 64 of Chapter 143 of the General Statutes pertaining to State-controlled buildings, smoking is prohibited inside State government buildings as provided in this section. As to smoking rooms in residence halls that were permitted by G.S. 143-597(a)(6), this Article becomes effective beginning with the 2008-2009 academic year.

(b) Smoking is permitted inside State government buildings that are used for medical or scientific research to the extent that smoking is an integral part of the research. Smoking permitted under this subsection shall be confined to the area where the research is being conducted.

(c) The individual in charge of the State government building or the individual's designee shall post signs in conspicuous areas of the building. The signs shall state that "smoking is prohibited" and may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

(d) Notwithstanding G.S. 130A-25, a violation of Article 23 of this Chapter shall not be punishable as a criminal violation.

"**§ 130A-493.1. Other prohibitions.**

Nothing in this Article repeals any other law prohibiting smoking, nor does it limit any law allowing regulation or prohibition of smoking on the grounds of buildings.

"**§ 130A-494. Rules.**

The Commission shall adopt rules to implement this Part."

SECTION 2. Effective January 1, 2008, Article 23 of Chapter 130A of the General Statutes, as enacted in Section 1 of this act, is amended by adding the following new Part to read:

"Part 2. Local Government Regulation of Smoking.

"**§ 130A-498. Local governments may restrict smoking in public places.**

(a) Notwithstanding any other provision of Article 64 of Chapter 143 of the General Statutes to the contrary, a local government may adopt an ordinance, law, or rule restricting smoking in accordance with subsection (b) of this section.

(b) Any local ordinance, law, or rule authorized under this section may restrict smoking only in:

(1) Buildings owned, leased as lessor, or the area leased as lessee and occupied by local government;

(2) Building and grounds wherein local health departments and departments of social services are housed;

(3) Public schools, school facilities, on school campuses, at school-related or school-sponsored events, in or on other school property, public school buses, or at day care centers. Such restrictions may be imposed by local school boards having ownership or jurisdiction over the building, campus, event, property, or vehicle; and

(4) Any place on a public transportation vehicle owned or leased by local government and used by the public.

(c) As used in this Part, 'local government' means any local political subdivision of this State, any airport authority, or any authority or body created by any ordinance or rules of any such entity.

(d) As used in this Part, 'grounds' means the area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.

(e) A county ordinance adopted under this section is subject to the provisions of G.S. 153A-122."

SECTION 3. Effective January 1, 2008, G.S. 143-601 reads as rewritten:

"§ **143-601. Applicability of Article; local government may enact.**

(a) This Article shall not supersede nor prohibit the enactment or enforcement of any otherwise valid local law, rule, or ordinance enacted prior to October 15, 1993, regulating the use of tobacco products. However, no local law, rule, or ordinance enacted and placed in operation prior to October 15, 1993, shall be amended to impose a more stringent standard than in effect on the date of ratification of this Article.

(b) Any local ordinance, law, or rule that regulates smoking adopted on or after October 15, 1993, shall not contain restrictions regulating smoking which exceed those established in this Article. Any such local ordinance, law, or rule may restrict smoking in accordance with this subsection and pursuant to G.S. 143-597 only in the following facilities that are not owned, leased, or occupied by local government: ~~pursuant to G.S. 143-597:~~

~~(1) Buildings owned, leased or occupied by local government.~~

(2) A public meeting.

(3) The indoor space in an auditorium, arena, or coliseum, or an appurtenant building thereof.

(4) A library or museum open to the public.

~~(5) Any place on a public transportation vehicle owned or leased by local government and used by the public.~~

If any of the facilities listed in this subsection are owned, leased as lessor, or the area leased as lessee and occupied by local government, then the local ordinance, law, or rule restricting smoking shall be governed by Article 23 of Chapter 130A of the General Statutes."

SECTION 3.1. If Senate Bill 1086, 2007 Regular Session, becomes law, G.S. 130A-498(b)(3), as enacted by Section 2 of this act, is repealed effective August 1, 2008.

SECTION 3.2. If Senate Bill 862, 2007 Regular Session, becomes law, G.S. 130A-493.1 as enacted by this act reads as rewritten:

"§ **130A-493.1. Other prohibitions.**

Nothing in this Article repeals any other law prohibiting smoking, nor does it limit any law allowing regulation or prohibition of smoking on walkways or on the grounds of buildings."

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

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 12:13 p.m. on the 8th day of July, 2007.

Session Law 2007-194 **Senate Bill 738**

AN ACT TO EXEMPT FOR-HIRE VEHICLES USED FOR CERTAIN AGRICULTURAL PURPOSES FROM THE VEHICLE REGISTRATION REQUIREMENTS, TO INCREASE THE ALLOWED LENGTH OF TRUCKS

THAT TRANSPORT COTTON, AND TO CLARIFY THAT FARM EQUIPMENT INCLUDES TRUCKS THAT TRANSPORT COTTON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-51 is amended by adding a new subdivision to read:

"§ **20-51. Exempt from registration.**

The following shall be exempt from the requirement of registration and certificate of title:

…

(16) A vehicle that meets all of the following:

a. Is an agricultural spreader vehicle. An 'agricultural spreader vehicle' is a vehicle that is designed for off-highway use on a farm to spread fertilizer, seed, lime, or other agricultural products on a field.

b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.

c. Does not exceed a speed of 35 miles per hour.

d. Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer and other products.

e. Is driven by a person who has a license appropriate for the class of the vehicle.

f. Is insured under a motor vehicle liability policy in the amount required under G.S. 20-309.

g. Displays a valid federal safety inspection decal if the vehicle has a gross vehicle weight rating of at least 10,001 pounds."

SECTION 2. G.S. 20-116(d) reads as rewritten:

"(d) Maximum Length. – The following maximum lengths apply to vehicles. A truck-tractor and semitrailer shall be regarded as two vehicles for the purpose of determining lawful length and license taxes.

(1) Except as otherwise provided in this subsection, a single vehicle having two or three axles shall not exceed 40 feet in length overall of dimensions inclusive of front and rear bumpers.

(2) Trucks transporting unprocessed cotton from farm to gin shall not exceed ~~48~~50 feet in length overall of dimensions inclusive of front and rear bumpers.

(3) Recreational vehicles shall not exceed 45 feet in length overall, excluding bumpers and mirrors."

SECTION 3. G.S. 20-116(j) reads as rewritten:

"(j) Self-propelled grain combines or other farm equipment self-propelled, pulled or otherwise, not exceeding 18 feet in width may be operated on any highway, except a highway or section of highway that is a part of the National System of Interstate and Defense ~~Highways:~~ Highways. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. ~~Provided that all~~ All such combines or equipment which exceed 10 feet in width may be so operated only under the following conditions:

(1) Said equipment may only be so operated during daylight ~~hours; and~~ hours.

(2) Said equipment must display a red flag on front and rear, said flags shall not be smaller than three feet wide and four feet long and be attached to a stick, pole, staff, etc., not less than four feet long and shall be so attached to said equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 ~~feet; and~~feet.

(3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags referred to in subdivision (2) are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.

(4) Every such piece of equipment so operated shall operate to the right of the center line when meeting traffic coming from the opposite direction and at all other times when possible and practical.

(5) Violation of this section shall not constitute negligence per se.

(6) When said equipment is causing a delay in traffic, the operator of said equipment shall move the equipment off the paved portion of the highway at the nearest practical location until the vehicles following said equipment have passed."

SECTION 4. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 12:16 p.m. on the 8th day of July, 2007.

Session Law 2007-195 **House Bill 847**

AN ACT CLARIFYING THAT EMPLOYEES OF THE NORTH CAROLINA COOPERATIVE EXTENSION SERVICE ARE EXEMPT FROM THE STATE PERSONNEL ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-5(c1) is amended by adding a new subdivision to read:

"(9a) Employees of the North Carolina Cooperative Extension Service of North Carolina State University who are employed in county operations and who are not exempt pursuant to subdivision (8) or (9) of this subsection."

SECTION 2. Article 1 of Chapter 116 of the General Statues is amended by adding a new section to read:

"**§ 116-33.2. Cooperative Extension Service employees.**

The Board of Trustees of North Carolina State University shall adopt personnel policies governing the employment of the employees of the North Carolina Cooperative Extension Service who are exempted from certain provisions of Chapter 126 of the General Statutes pursuant to G.S. 126-5(c1)(9a)."

SECTION 3. G.S. 153A-439 reads as rewritten:

"§ **153A-439. Support of extension activities; personnel rules for extension employees.**

(a) A county may support the work of the North Carolina ~~Agricultural~~ Cooperative Extension Service and for these purposes may appropriate revenues not otherwise limited as to use by law.

~~If a county adopts rules and regulations concerning annual leave, sick leave, hours of employment, and holidays that apply to county employees generally, these rules and regulations apply to county extension employees. Otherwise, the rules and regulations adopted by the North Carolina Agricultural Extension Service concerning these matters apply to county extension employees.~~

(b) The policies adopted by the Board of Trustees of North Carolina State University for the employees of the North Carolina Cooperative Extension Service shall govern the employment of employees exempted from certain provisions of Chapter 126 of the General Statutes pursuant to G.S. 126-5(c1)(9a). The policies adopted by the University of North Carolina Board of Governors and the employing constituent institution shall govern the employment of employees of the North Carolina Cooperative Extension Service exempted from certain provisions of Chapter 126 of the General Statutes pursuant to G.S. 126-5(c1)(8)."

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

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 12:19 p.m. on the 8th day of July, 2007.

Session Law 2007-196 **House Bill 1347**

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO MAKE A FALSE REPORT CONCERNING A THREAT OF MASS VIOLENCE ON EDUCATIONAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 35 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ **14-277.5. Making a false report concerning mass violence on educational property.**

(a) The following definitions apply in this section:

(1) Educational property. – As defined in G.S. 14-269.2.

(2) Mass violence. – Physical injury that a reasonable person would conclude could lead to permanent injury (including mental or emotional injury) or death to two or more people.

(3) School. – As defined in G.S. 14-269.2.

(b) A person who, by any means of communication to any person or groups of persons, makes a report, knowing or having reason to know the report is false, that an

act of mass violence is going to occur on educational property or at a curricular or extracurricular activity sponsored by a school, is guilty of a Class H felony.

(c) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from the disruption of the normal activity that would have otherwise occurred on the premises but for the false report, pursuant to Article 81C of Chapter 15A of the General Statutes."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:22 p.m. on the 8th day of July, 2007.

Session Law 2007-197 **House Bill 581**

AN ACT TO MODIFY THE LAW REGARDING MEETINGS OF COMMUNITY COLLEGE TRUSTEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-18 reads as rewritten:

"§ **115D-18. Organization of boards; meetings.**

At the first meeting after its selection, each board of trustees shall elect from its membership a chairman, who shall preside at all board meetings, and a vice-chairman, who shall preside in the absence of the chairman. The trustees shall also elect a secretary, who may be a trustee, to keep the minutes of all board meetings. All three officers of the board shall be elected for a period of one year but shall be eligible for reelection by the board.

Each board of trustees shall meet as often as may be necessary for the conduct of the business of the institution but shall meet at least once every three months. Meetings may be called by the chairman of the ~~board or by~~board, a majority of the trustees, or the chief administrative officer of the institution."

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

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 12:22 p.m. on the 8th day of July, 2007.

Session Law 2007-198 **House Bill 701**

AN ACT TO EXEMPT LICENSEES WHO ARE IN ACTIVE PRACTICE AS COSMETOLOGISTS AND HAVE TWENTY CONSECUTIVE YEARS OF EXPERIENCE FROM CONTINUING EDUCATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21(e) reads as rewritten:

"(e) Prior to renewal of a license, a teacher, cosmetologist, esthetician, or manicurist shall annually complete eight hours of Board-approved continuing education for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at any time within the cosmetologist's three-year

licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. A licensee who is in active practice as a cosmetologist, esthetician, or manicurist, has practiced for at least 10 consecutive years in that profession and is 60 years of age or older does not have to meet the continuing education requirements of this subsection. A licensee who is in active practice as a cosmetologist ~~and, as of October 1, 2004,~~and has at least 20 consecutive years of experience as a cosmetologist, does not have to meet the continuing education requirements of this subsection, but shall report any continuing education classes completed to the Board, whether the continuing education classes are Board-approved or not. Promotion of products and systems shall be allowed at continuing education given in-house or at trade shows. Continuing education classes may also be offered in secondary languages as needed. No member of the Board may offer continuing education courses as required by this section."

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:23 p.m. on the 8th day of July, 2007.

Session Law 2007-199 **House Bill 1482**

AN ACT AMENDING CERTAIN DEFINITIONS UNDER THE LAWS PERTAINING TO CIVIL NO-CONTACT ORDERS.

The General Assembly of North Carolina enacts:

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

"§ **50C-1. Definitions.**

The following definitions apply in this Chapter:

(1) Abuse. – To physically or mentally harm, harass, intimidate, or interfere with the personal liberty of another.

(2) Civil no-contact order. – An order granted under this Chapter, which includes a remedy authorized by G.S. 50C-5.

(3) Nonconsensual. – A lack of freely given consent.

(4) Sexual conduct. – Any intentional or knowing touching, fondling, or sexual penetration by a person, either directly or through clothing, of the sexual organs, anus, or breast of another, whether an adult or a minor, for the purpose of sexual gratification or arousal. For purposes of this subdivision, the term shall include the transfer or transmission of semen.

(5) Repealed by Session Laws 2004-199, s. 50, effective August 17, 2004.

(6) Stalking. – ~~Following on more than one occasion~~On more than one occasion, following or otherwise harassing, as defined in G.S. 14-277.3(c), another person without legal purpose with the intent to do any of the following:

a. Place the person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.

b. Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued

harassment and that in fact causes that person substantial emotional distress.

(7) Unlawful conduct. – The commission of one or more of the following acts by a person 16 years of age or older upon a person, but does not include acts of self-defense or defense of others:

a. Nonconsensual sexual conduct, including single incidences of nonconsensual sexual conduct.

b. Stalking.

(8) Victim. – A person against whom an act of unlawful conduct has been committed by another person not involved in a personal relationship with the person as defined in G.S. 50B-1(b)."

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:31 p.m. on the 8th day of July, 2007.

Session Law 2007-200 **House Bill 1487**

AN ACT TO CLARIFY ACTIVE MEMBERSHIP IN THE STATE BAR AND ALLOW INACTIVE LAWYERS TO PROVIDE PRO BONO LEGAL SERVICES, TO MODIFY THE NUMBER OF MEMBERS ON THE STATE BAR COUNCIL TO EQUAL THE NUMBER OF JUDICIAL DISTRICTS PLUS SIXTEEN, TO ALLOW LAW STUDENTS TO ACT AS LEGAL INTERNS FOR GOVERNMENT AGENCIES AND OUT-OF-STATE LAWYERS TO PROVIDE PRO BONO LEGAL SERVICES, AND TO REQUIRE THAT AN OUT-OF-STATE LAWYER FILE A REGISTRATION STATEMENT WITH THE STATE BAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-16 reads as rewritten:

"§ **84-16. Membership and privileges.**

The membership of the North Carolina State Bar shall consist of two classes, active and inactive.

The active members shall be all persons who ~~shall~~ have ~~heretofore obtained, or who shall hereafter obtain,~~ obtained a license or certificate, ~~which shall at the time be valid and effectual,~~ entitling them to practice law in the State of North Carolina, who ~~shall~~ have paid the membership dues ~~hereinafter specified,~~ specified, and who have satisfied all other obligations of membership. ~~unless classified as an inactive member by the Council as hereinafter provided.~~ No person other than a member of the North Carolina State Bar shall practice in any court of the State except foreign attorneys as provided by ~~statute.~~ statute and natural persons representing themselves.

Inactive members shall ~~be all~~ be:

(1) All persons who have obtained a license to practice law in the State but who have been found by the Council to be not engaged in the practice of law and not holding themselves out as practicing attorneys and not occupying any public or private positions in which they may be called upon to give legal advice or counsel or to examine the law or to pass

upon, adjudicate, or offer an opinion concerning the legal effect of any act, document, or law.

(2) Persons allowed by the Council solely to represent indigent clients on a pro bono basis under the supervision of an active member employed by a nonprofit corporation qualified to render legal services pursuant to G.S. 84-5.1.

All active members shall be required to pay annual membership fees, and shall have the right to vote in elections held by the district bar in the judicial district in which the member resides. ~~Provided, that if~~ If a member desires to vote with the bar of some district in which the member practices, other than that in which the member resides, the member may do so by filing with the Secretary of the North Carolina State Bar a statement in writing that the member desires to vote in the other ~~district: Provided,~~ district; provided, however, that in no case shall the member be entitled to vote in more than one district."

SECTION 2. G.S. 84-17 reads as rewritten:

"§ **84-17. Government.**

The government of the North Carolina State Bar is vested in a council of the North Carolina State Bar referred to in this Chapter as the ~~"Council", which~~ "Council." The Council shall be composed of ~~55~~ a variable number of councilors equal to the number of judicial districts plus 16, ~~exclusive of officers, except as hereinafter provided, to be appointed or elected as hereinafter set forth,~~ the officers of the North Carolina State Bar, who shall be councilors during their respective terms of office, and each retiring president of the North Carolina State Bar who shall be a councilor for one year from the date of expiration of his term as president. Notwithstanding any other provisions of the law, the North Carolina State Bar may acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council shall be competent to exercise the entire powers of the North Carolina State Bar in respect of the interpretation and administration of this Article, the acquisition, lease, sale, or mortgage of property, real or personal, the seeking of amendments ~~hereto,~~ to this Chapter, and all other matters. There shall be one councilor from each judicial district and 16 additional ~~councilors as are necessary to make the total number of councilors 55.~~ councilors. The additional councilors shall be allocated and reallocated by the North Carolina State Bar every six years based on the number of active members of each judicial district bar according to the records of the North Carolina State Bar and in accordance with a formula to be adopted by the North Carolina State Bar, to insure an allocation based on lawyer population of each judicial district bar as it relates to the total number of active members of the State Bar.

A councilor whose seat has been eliminated due to a reallocation shall continue to serve on the Council until expiration of the remainder of the current term. A councilor whose judicial district is altered by the General Assembly during the councilor's term shall continue to serve on the Council until the expiration of the term and shall represent the district wherein the councilor resides or with which the councilor has elected to be affiliated. If before the alteration of the judicial district of the councilor the judicial district included both the place of residence and the place of practice of the councilor, and if after the alteration of the judicial district the councilor's place of residence and place of practice are located in different districts, the councilor must, not later than 10 days from the effective date of the alteration of the district, notify the Secretary of the

North Carolina State Bar of an election to affiliate with and represent either the councilor's district of residence or district of practice.

In addition to the ~~55~~ councilors, there shall be three public members not licensed to practice law in this or any other state who shall be appointed by the Governor. The public members may vote and participate in all matters before the Council to the same extent as councilors elected or appointed from the various judicial districts."

SECTION 3. G.S. 84-8 reads as rewritten:

"§ **84-8. Punishment for violations; legal clinics of law schools and certain law students and lawyers excepted.**

Any person, corporation, or association of persons violating the provisions of G.S. 84-4 to ~~84-8~~ G.S. 84-7 shall be guilty of a Class 1 misdemeanor. ~~Provided, that~~ The provisions of G.S. 84-4 to ~~84-8~~ G.S. 84-7 shall not apply to the following:

(1) ~~any~~ Any law school ~~or law schools~~ conducting a legal clinic and receiving as ~~their~~ its clientage only those persons unable financially to compensate for legal advice or services ~~rendered.~~ rendered and any law student permitted by the North Carolina State Bar to act as a legal intern in such a legal clinic.

(2) Any law student permitted by the North Carolina State Bar to act as a legal intern for a federal, state, or local government agency.

(3) Any lawyer licensed by another state and permitted by the North Carolina State Bar to represent indigent clients on a pro bono basis under the supervision of active members employed by nonprofit corporations qualified to render legal services pursuant to G.S. 84-5.1. This provision does not apply to a lawyer whose license has been suspended or revoked in any state."

SECTION 4. G.S. 84-4.1(5) reads as rewritten:

"§ **84-4.1. Limited practice of out-of-state attorneys.**

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of and in good standing in that state, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the proceeding. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

…

(5) A statement to the effect that the attorney has associated and is personally appearing in the proceeding, with an attorney who is a resident of this ~~State~~ State, has agreed to be responsible for filing a registration statement with the North Carolina State Bar, and is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on the foreign attorney within this State.

…."

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

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Became law upon approval of the Governor at 12:32 p.m. on the 8th day of July, 2007.

Session Law 2007-201 **Senate Bill 167**

AN ACT TO MAKE THE LEGISLATIVE INTERN PROGRAM AVAILABLE TO STUDENTS ENROLLED IN COMMUNITY COLLEGES THAT OFFER COLLEGE TRANSFER PROGRAMS AS WELL AS TO STUDENTS ENROLLED IN FOUR YEAR COLLEGES AND UNIVERSITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-57 reads as rewritten:

"§ **120-57. Legislative Intern Program Council to promulgate a plan for the use of legislative interns.**

(a) For purposes of this section the term "institutions of higher education" means four year colleges and universities and community colleges that offer college transfer programs.

(b) The Legislative Intern Program Council is hereby empowered and is directed to promulgate for each session of the General Assembly a plan providing for the selection, tenure, duties and compensation of legislative interns. Interns shall be selected from institutions of higher education ~~(four-year colleges and universities)~~ within North Carolina, including but not limited to all units of the university ~~system.~~system and community college system. The selection shall be based upon guidelines set forth by the Legislative Intern Program Council; these guidelines shall permit the proper consideration of each applicant."

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Became law upon approval of the Governor at 12:34 p.m. on the 8th day of July, 2007.

Session Law 2007-202 **Senate Bill 427**

AN ACT AUTHORIZING THE TOWNS OF AYDEN AND BURGAW TO ORDER DWELLINGS DETERMINED UNFIT FOR HUMAN HABITATION REPAIRED OR DEMOLISHED AFTER A PERIOD OF SIX MONTHS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-443(5b) reads as rewritten:

"(5b) If the governing body shall have adopted an ordinance, or the public officer shall have:

a. In a municipality other than municipalities with a population in excess of 190,000 by the last federal census, issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of ~~one year~~six months pursuant to the ordinance or order;

b. In a municipality with a population in excess of 190,000 by the last federal census, commenced proceedings under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a., and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or after such proceedings have commenced,

then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing body may, after the expiration of such ~~one-year~~six-month period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

~~This subdivision applies to the Cities of Eden, Lumberton, Roanoke Rapids, and Whiteville, to the municipalities in Lee County, and the Towns of Bethel, Farmville, Newport, and Waynesville only.~~"

SECTION 2. This act applies to the Town of Ayden and the Town of Burgaw only.

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

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-203 **House Bill 226**

AN ACT TO AUTHORIZE SCOTLAND COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 1997-410 is amended by adding a new subsection to read:

"(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Scotland County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Scotland County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

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

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-204 **House Bill 279**

AN ACT TO ALLOW THE TOWN OF NORTH TOPSAIL BEACH TO ADOPT ORDINANCES REGULATING GOLF CARTS AND UTILITY VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-124, as amended by S.L. 2004-58, reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the ~~Town~~ Towns of Beech ~~Mountain~~ Mountain, North Topsail Beach, and ~~the Town of~~ Seven Devils may, by ordinance, regulate the operation of golf carts and utility vehicles on any public street or road within the Town. By ordinance, the Town may require the registration of golf carts and utility vehicles, specify the persons authorized to operate golf carts and utility vehicles, and specify required equipment, load limits, and the hours and methods of operation of the golf carts and utility vehicles."

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

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-205 **House Bill 513**

AN ACT AMENDING THE CHARTER OF THE CITY OF CHARLOTTE TO ALLOW THE CITY COUNCIL TO DELEGATE TO THE CITY MANAGER THE AUTHORITY TO DETERMINE WHETHER THE COMPETITIVE PROPOSAL METHOD IS APPROPRIATE FOR PUBLIC TRANSIT PURCHASES AND PROVIDING THAT THE CITY MAY LET CONTRACTS FOR THE ACQUISITION OR MAINTENANCE OF TRANSIT EQUIPMENT OR

FACILITIES IN THE MANNER PRESCRIBED BY THE FEDERAL GOVERNMENT WHEN THE PROJECT IS FUNDED IN WHOLE OR IN PART WITH FEDERAL FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 8.87 of the Charter of the City of Charlotte, being S.L. 2000-26, as amended by S.L. 2000-61 and S.L. 2003-197, reads as rewritten:

"Section 8.87. Transit Procurements. (a) In addition to other authorized methods of procurement, the City of Charlotte may contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment for public transit purposes using the competitive proposal method provided in G.S. 143-129(h). The City Council may delegate to the City Manager, subject to any conditions or restrictions it deems appropriate, the authority to make findings of fact that procurement by competitive proposal is the most appropriate acquisition method prior to the issuance of requests for proposals, as required by G.S. 143-29(h).

(b) The City of Charlotte may contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment for public transit purposes with any person or entity that, within the previous 60 months, after having completed a public formal bid process substantially similar to that required by Article 8 of Chapter 143 of the General Statutes or through the competitive proposal method provided in G.S. 143-129(h), has contracted to furnish the apparatus, supplies, materials, or equipment to any unit or agency approved in G.S. 143-129(g) if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. Any purchase made under this section shall be approved by the City Council as provided in G.S. 143-129(g).

(c) All contracts for the acquisition, construction, enlargement, improvement, or maintenance of transit equipment or facilities shall be made pursuant to the laws of North Carolina governing the making of like contracts. However, where the acquisition, construction, improvement, enlargement, or maintenance of transit equipment or facilities is financed wholly or partly with federal funds, the City may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States and any rules, regulations, or other directives made thereunder notwithstanding any other State law to the contrary."

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

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-206 **House Bill 1103**

AN ACT TO ALLOW CURRITUCK COUNTY TO REDEFINE ITS RESIDENCY DISTRICTS IN 2007 AFTER PUBLIC INPUT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) As used in this act, 'Residency district' means a district in which the candidates reside and represent the district, but the candidates are voted on in the primaries and general elections by the qualified voters of the entire county. It includes districts established either by local act or under G.S. 153A-58(3)d.

SECTION 1.(b) The board of commissioners may by resolution redefine the residency districts.

SECTION 1.(c) No change in the boundaries of a residency district may affect the unexpired term of office of a commissioner residing in the district and serving on the board on the effective date of the resolution.

SECTION 1.(d) Before any resolution may be adopted pursuant to this section, the board of commissioners shall hold at least two public hearings on it. The two hearings shall be held at separate locations in different parts of the county, and shall be held at least a week apart. A notice of the public hearings shall be given once a week for three successive weeks in a newspaper having general circulation in the county. The notice shall be published for the first time not less than 20 days nor more than 30 days before the date fixed for the first hearing. The proposed resolution shall also be published on the Internet Web site of the county at least 20 days prior to the hearing. The resolution may not be adopted less than 30 days after the date of the second hearing. Any resolution under this section is only valid if adopted prior to October 1, 2007.

SECTION 1.(e) Not later than 10 days after the day on which a resolution becomes effective, the clerk shall file in the Secretary of State's office, in the office of the register of deeds of the county, and with the chairman of the county board of elections, a certified copy of the resolution.

SECTION 2. This act applies to Currituck County only.

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

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-207 **House Bill 1120**

AN ACT REPEALING THE LOCAL MODIFICATION RELATING TO THE DEFINITION OF SUBDIVISION IN PASQUOTANK COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1993-194 is repealed.

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

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-208 **Senate Bill 426**

AN ACT AFFECTING THE REGULATION OF ABANDONED OR JUNKED MOTOR VEHICLES IN THE TOWNS OF AYDEN, CORNELIUS, DAVIDSON, HUNTERSVILLE, AND SPRING LAKE AND THE CITIES OF EDEN, GREENSBORO, HIGH POINT, AND REIDSVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-303(b2) reads as rewritten:

"(b2) A junked motor vehicle is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) **(applicable to most localities)** Is more than five years old and worth less than one hundred dollars ($100.00);

(3a) Is more than five years old and worth less than five hundred dollars ($500.00); this subdivision applies only to the Cities of Belmont, Bessemer City, Cherryville, Eden, Gastonia, Greensboro, ~~Henderson and Mount Holly,~~ Henderson, High Point, Mount Holly, and Reidsville and the Towns of Ahoskie, Ayden, Cornelius, Cramerton, Dallas, Davidson, Farmville, Huntersville, LaGrange, Matthews, Mint Hill, Louisburg, ~~and Stanley~~ Spring Lake, and Stanley; or

(4) Does not display a current license plate."

SECTION 2. G.S. 160A-303.2(a) reads as rewritten:

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

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

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) **(applicable to most localities)** Is more than five years old and appears to be worth less than one hundred dollars ($100.00); [or]

(4) Is more than five years old and appears to be worth less than five hundred dollars ($500.00). This subdivision applies only to the Cities of Belmont, Bessemer City, Cherryville, Eden, ~~Gastonia and Mount Holly,~~ Gastonia, Greensboro, High Point, Mount Holly, and Reidsville and the Towns of Ahoskie, Ayden, Cornelius, Cramerton, Dallas, Davidson, Farmville, Huntersville, LaGrange, Mint Hill, ~~Louisburg~~Louisburg, ~~and Stanley.~~ Spring Lake, and Stanley."

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

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-209 **Senate Bill 1350**

AN ACT TO CLARIFY MOTOR VEHICLE REGISTRATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2007-164 is repealed.

SECTION 2. G.S. 20-52 reads as rewritten:

"§ **20-52. Application for registration and certificate of title.**

(a) An owner of a vehicle subject to registration must apply to the Division for a certificate of title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application form provided by the Division. The application form must request all of the following information and may request other information the Division considers necessary:

(1) The owner's name.

(1a) If the owner is an individual, the following information:

a. The owner's mailing address and residence address.

b. One of the following:

1. The owner's ~~social security number.~~ North Carolina drivers license number or North Carolina special identification card number.

2. The owner's home state drivers license number or home state special identification card number and valid active duty military identification card if the owner is a person on active military duty and is stationed in this State.

3. The owner's home state drivers license number or home state special identification card number and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State.

4. The owner's home state drivers license number or home state special identification card number if the owner or co-owner intends to principally garage the vehicle in this State. "Principally garage" means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle.

c. For vehicles that have more than one owner, only one co-owner is required to provide the information requested under sub-subdivision b. of this subdivision.

(1b) If the owner is a firm, a partnership, a corporation, or another entity, the address of the entity.

(2) A description of the vehicle, including the following:

a. The make, model, type of body, and vehicle identification number of the vehicle.

b. Whether the vehicle is new or used and, if a new vehicle, the date the manufacturer or dealer sold the vehicle to the owner and the date the manufacturer or dealer delivered the vehicle to the owner.

(3) A statement of the owner's title and of all liens upon the vehicle, including the names and addresses of all lienholders in the order of their priority, and the date and nature of each lien.

The application form must contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579. In accordance with 42 U.S.C. 405(c)(2)(C)(v), the Division may disclose a social security number obtained under this subsection only for the

purpose of administering the motor vehicle registration laws and may not disclose the social security number for any other purpose. The social security number of a person who applies to register a vehicle or of a person in whose name a vehicle is registered is therefore not a public record. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. 405(c)(2)(C)(vii).

(b) When such application refers to a new vehicle purchased from a manufacturer or dealer, such application shall be accompanied with a manufacturer's certificate of origin that is properly assigned to the applicant. If the new vehicle is acquired from a dealer or person located in another jurisdiction other than a manufacturer, the application shall be accompanied with such evidence of ownership as is required by the laws of that jurisdiction duly assigned by the disposer to the purchaser, or, if no such evidence of ownership be required by the laws of such other jurisdiction, a notarized bill of sale from the disposer."

SECTION 3. Notwithstanding G.S. 20-58.2, any application for notation of security interest which had been completed but not yet submitted to or processed by the Division by the effective date of this act by reason of the fact that one or more owners failed to possess a North Carolina drivers license or North Carolina special identification card, as required by Section 4 of S.L. 2007-164, shall be deemed perfected as of the date of the execution of the security agreement provided that the application is delivered to the Division along with the required fee within 20 days of the effective date of this act.

SECTION 4. The time limit provisions set forth in G.S. 20-73(a) and the penalties provided in G.S. 20-73(c) shall not apply to any completed application which had not yet been submitted to or processed by the Division by the effective date of this act by reason of the fact that one or more owners failed to possess a North Carolina drivers license or North Carolina special identification card, as required by Section 4 of S.L. 2007-164, provided that the requirements of G.S. 20-73 are met within 28 days of the effective date of this act.

SECTION 5. Sections 1, 3, and 4 of this act are effective when they become law and apply to applications for registration and certificate of title made on or after that date. Sections 1, 3, and 4 of this act shall also apply to any certificate of title, registration plate, registration card, or notation of security interest application which had been completed but not yet submitted to or processed by the Division by the effective date of this act. Section 2 of this act is effective September 1, 2007, and applies to applications for registration and certificate of title made on or after that date.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 7:45 p.m. on the 11th day of July, 2007.

Session Law 2007-210 **House Bill 244**

AN ACT TO PROVIDE FOR EQUITY BETWEEN THE PARTIES WITH RESPECT TO JUROR CHALLENGES IN CIVIL CASES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 9-20 reads as rewritten:

"§ **9-20. Civil cases having several <u>plaintiffs or several</u> defendants; challenges apportioned; discretion of judge.**

(a) When there are two or more defendants in a civil action, the presiding judge, if it appears that there are antagonistic interests between the defendants, may in ~~his~~ the judge's discretion apportion among the defendants the challenges now allowed by law, or ~~he~~ the judge may increase the number of challenges to not exceeding six for each defendant or class of defendants representing the same interest. ~~In either event, the same number of challenges shall be allowed each defendant or class of defendants representing the same interest. The decision of the judge as to the nature of the interests and number of challenges shall be final.~~

(b) When there are two or more plaintiffs in a civil action, the presiding judge, if it appears that there are antagonistic interests between the plaintiffs, may, in the judge's discretion, apportion among the plaintiffs the challenges now allowed by law, or the judge may increase the number of challenges to not exceeding six for each plaintiff or class of plaintiffs representing the same interest.

(c) Whenever a judge exercises the discretion authorized by subsection (a) or (b) of this section to increase the number of challenges for either the plaintiffs or the defendants, the judge may, in the judge's discretion, increase the number of challenges for the opposing side, not to exceed the total number given to the other side."

SECTION 2. This act becomes effective October 1, 2007, and applies to actions called for trial on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2007.

Became law upon approval of the Governor at 7:46 p.m. on the 11th day of July, 2007.

Session Law 2007-211 **House Bill 995**

AN ACT TO INCREASE THE PENALTY FOR THE MALICIOUS, INTENTIONAL STARVATION OF AN ANIMAL AND MAKE OTHER CHANGES TO THE ANIMAL CRUELTY STATUTE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-360 is amended by adding a new subsection to read:

"(a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class A1 misdemeanor."

SECTION 2. G.S. 14-360(c) reads as rewritten:

"(c) As used in this section, the words "torture", "torment", and "cruelly" include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word "intentionally" refers to an act committed knowingly and without justifiable excuse, while the word "maliciously" means an act committed intentionally and with malice or bad motive. As used in this section, the term "animal" includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of "wild birds" pursuant to G.S. 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

(2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(3) Activities conducted for lawful veterinary purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.

(5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards."

SECTION 3. Section 1 of this act becomes effective December 1, 2007, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2007.

Became law upon approval of the Governor at 7:47 p.m. on the 11th day of July, 2007.

Session Law 2007-212 **House Bill 21**

AN ACT TO CLARIFY THE COURT'S DISCRETION TO ALLOW COURT COSTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 6-19 reads as rewritten:

"§ **6-19. When costs allowed as of course to defendant.**

Costs shall be allowed as of course to the defendant, in the actions mentioned in ~~the preceding section~~ G.S. 6-18 unless the plaintiff be entitled to costs therein. In all actions where there are several defendants not united in interest, and making separate defenses by separate answers, and the plaintiff fails to recover judgment against all, the court may award costs to such of the defendants as have judgment in their favor or any of them."

SECTION 2. G.S. 6-20 reads as rewritten:

"§ **6-20. Costs allowed or not, in discretion of court.**

~~In other actions,~~ In actions where allowance of costs is not otherwise provided by the General Statutes, costs may be allowed ~~or not,~~ in the discretion of the court.~~court, unless otherwise provided by law.~~ Costs awarded by the court are subject to the limitations on assessable or recoverable costs set forth in G.S. 7A-305(d), unless specifically provided for otherwise in the General Statutes."

SECTION 3. G.S. 7A-305(d) reads as rewritten:

"(d) The following expenses, when incurred, are ~~also~~ assessable or recoverable, as the case may ~~be:~~ be. The expenses set forth in this subsection are complete and exclusive and constitute a limit on the trial court's discretion to tax costs pursuant to G.S. 6-20:

(1) Witness fees, as provided by law.

(2) Jail fees, as provided by law.

(3) Counsel fees, as provided by law.

(4) Expense of service of process by certified mail and by publication.

(5) Costs on appeal to the superior court, or to the appellate division, as the case may be, of the original transcript of testimony, if any, insofar as essential to the appeal.

(6) Fees for personal service and civil process and other sheriff's fees, as provided by law. Fees for personal service by a private process server may be recoverable in an amount equal to the actual cost of such service or fifty dollars ($50.00), whichever is less, unless the court finds that due to difficulty of service a greater amount is appropriate.

(7) Fees of mediators appointed by the court, mediators agreed upon by the parties, guardians ad litem, referees, receivers, commissioners, surveyors, arbitrators, appraisers, and other similar court appointees, as provided by law. The fee of such appointees shall include reasonable reimbursement for stenographic assistance, when necessary.

(8) Fees of interpreters, when authorized and approved by the court.

(9) Premiums for surety bonds for prosecution, as authorized by G.S. 1-109.

(10) Reasonable and necessary expenses for stenographic and videographic assistance directly related to the taking of depositions and for the cost of deposition transcripts.

(11) Reasonable and necessary fees of expert witnesses solely for actual time spent providing testimony at trial, deposition, or other proceedings.

Nothing in this subsection or in G.S. 6-20 shall be construed to limit the trial court's authority to award fees and expenses in connection with pretrial discovery matters as provided in Rule 26(b) or Rule 37 of the Rules of Civil Procedure, and no award of costs made pursuant to this section or pursuant to G.S. 6-20 shall reverse or modify any such orders entered in connection with pretrial discovery."

SECTION 4. This act becomes effective August 1, 2007, and applies to all motions for costs filed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2007.

Became law upon approval of the Governor at 7:49 p.m. on the 11th day of July, 2007.

Session Law 2007-213 **House Bill 29**

AN ACT TO CLARIFY THE PROCEDURE FOR SATELLITE-BASED MONITORING OF SEX OFFENDERS AND TO MAKE OTHER CHANGES TO THE SEX OFFENDER LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.40 reads as rewritten:

"§ **14-208.40. Establishment of program; creation of guidelines; duties.**

(a) The Department of Correction shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor two categories of offenders as follows:

(1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article

27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6. ~~An offender in this category who is ordered by the court to submit to satellite-based monitoring is subject to that requirement for the person's natural life, unless the requirement is terminated pursuant to G.S. 14-208.36.~~

(2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Department's risk assessment program requires the highest possible level of supervision and monitoring. ~~An offender in this category who is ordered by the court to submit to satellite-based monitoring is subject to that requirement only for the period of time ordered by the court and is not subject to a requirement of lifetime satellite-based monitoring.~~

(b) In developing the guidelines for the program, the Department shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Department determines that an active program will not work as provided by this section, then the Department shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

(1) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology.

(2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real-time (active).

(d) The Department may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part."

SECTION 2. Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, or (iv) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, or (iv) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a recidivist, or has committed an aggravated offense, the court shall order the offender to enroll in a satellite-based monitoring program for life.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that offense is not an aggravated offense, and the offender is not a recidivist, the court shall order that the Department do a risk assessment of the offender. The Department shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Department pursuant to subsection (d) of this section, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court."

SECTION 3. Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-208.40B. Determination of satellite-based monitoring requirement in certain circumstances.**

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall be required to enroll in satellite-based monitoring, the Department shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14-208.40(a).

(b) If the Department determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the Department shall schedule a hearing in the court of the county in which the offender resides. The Department shall notify the offender of the Department's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt.

(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, or (iii) the conviction offense was an aggravated offense, the court shall order the offender to enroll in satellite-based monitoring for life.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that offense is not an aggravated offense, and the offender is not a recidivist, the court shall order that the Department do a risk

assessment of the offender. The Department shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court. The Department may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Department, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court."

SECTION 4. Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-208.40C. Requirements of enrollment.**

(a) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives an active sentence shall be enrolled and receive the appropriate equipment immediately upon the offender's release from the Division of Prisons.

(b) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives an intermediate punishment shall, immediately upon sentencing, report to the Division of Community Corrections for enrollment in the satellite-based monitoring program, and, if necessary, shall return at any time designated by that Division to receive the appropriate equipment. If the intermediate sentence includes a required period of imprisonment, the offender shall not be required to be enrolled in the satellite-based monitoring program during the period of imprisonment.

(c) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives a community punishment shall, immediately upon sentencing, report to the Division of Community Corrections for enrollment in the satellite-based monitoring program, and, if necessary, shall return at any time designated by that Division to receive the appropriate equipment."

SECTION 5. G.S. 14-208.42 reads as rewritten:

"§ **14-208.42. ~~Lifetime registration offenders~~ Offenders required to submit to satellite-based monitoring ~~for life and to continue on unsupervised probation~~required to cooperate with Department upon completion of sentence.**

Notwithstanding any other provision of law, when an offender is required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, ~~the court sentences an offender who is in the category described by G.S. 14-208.40(a)(1) for a reportable conviction as defined by G.S. 14-208.6(4), and orders the offender to enroll in a satellite-based monitoring program, the court shall also order that the offender,~~ upon completion of the offender's sentence and any term of parole, post-release supervision, intermediate punishment, or supervised probation that follows the sentence, the offender shall continue to be enrolled in the satellite-based monitoring program for ~~the offender's life and be placed on unsupervised probation~~the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring program is terminated pursuant to G.S. 14-208.43.

The Department shall have the authority to have contact with the offender at the offender's residence or to require the offender to appear at a specific location as needed for the purpose of enrollment, to receive monitoring equipment, to have equipment

examined or maintained, and for any other purpose necessary to complete the requirements of the satellite-based monitoring program. The offender shall cooperate with the Department and the requirements of the satellite-based monitoring program until the offender's requirement to enroll is terminated and the offender has returned all monitoring equipment to the Department."

SECTION 6. G.S. 14-208.44 reads as rewritten:

"§ **14-208.44. Failure to enroll; tampering with device.**

(a) Any person required to enroll in a satellite-based monitoring program who fails to enroll shall be guilty of a Class F felony.

(b) Any person who intentionally tampers with, removes, ~~or vandalizes~~vandalizes, or otherwise interferes with the proper functioning of a device issued pursuant to a satellite-based monitoring program to a person duly enrolled in the program shall be guilty of a Class E felony.

(c) Any person required to enroll in a satellite-based monitoring program who fails to provide necessary information to the Department, or fails to cooperate with the Department's guidelines and regulations for the program shall be guilty of a Class 1 misdemeanor.

(d) For purposes of this section, 'enroll' shall include appearing, as directed by the Department, to receive the necessary equipment."

SECTION 7. G.S. 15A-1343(b2) reads as rewritten:

"(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

(1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).

(2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.

(3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.

(4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.

(5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the minor child's best interest to allow the probationer to reside in the same household with a minor child.

(6) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(1).

(8) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is in the category described by G.S. 14-208.40(a)(2), and the Department of Correction, based on the Department's risk assessment program,

recommends that the defendant submit to the highest possible level of supervision and monitoring.

(9) Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the probationer's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the probation supervision. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised ~~probation, except as provided in G.S. 14-208.42.~~probation."

SECTION 8. G.S. 15A-1374(b)(11) reads as rewritten:

"(b) Appropriate Conditions. – As conditions of parole, the Commission may require that the parolee comply with one or more of the following conditions:

…

(11) Submit at reasonable times to warrantless searches ~~of his person~~ by a parole officer of the parolee's person and of the parolee's vehicle and premises while the parolee is present, for purposes reasonably related to ~~his~~ the parole supervision. The Commission may not require as a condition of parole that the parolee submit to any other searches that would otherwise be unlawful. If the parolee has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, warrantless searches of the parolee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the parole supervision. Whenever the search consists of testing for the presence of illegal drugs, the parolee may also be required to reimburse the Department of Correction for the actual cost of drug testing and drug screening, if the results are positive."

SECTION 9. G.S. 15A-1368.4(b1) reads as rewritten:

"(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required condition set forth in subsection (b) of this section, for a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may result in revocation of post-release supervision, are:

(1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).

(2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the Commission.

(3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.

(4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.

(5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless a court of competent jurisdiction expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the child's best interest to allow the supervisee to reside in the same household with a minor child.

(6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4) and the supervisee is in the category described by G.S. 14-208.40(a)(1).

(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4) and the supervisee is in the category described by G.S. 14-208.40(a)(2).

(8) Submit at reasonable times to warrantless searches by a post-release supervision officer of the supervisee's person and of the supervisee's vehicle and premises while the supervisee is present, for purposes reasonably related to the post-release supervision, but the supervisee may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the supervisee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the post-release supervision. Whenever the warrantless search consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive."

SECTION 9A. G.S. 14-208.9(a) reads as rewritten:

"(a) If a person required to register changes address, the person shall report in person and provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the person had last registered. If the person moves to another county, the person shall also report in person to the sheriff of the new county and provide written notice of the person's address not later than the tenth day after the change of address. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. ~~If the person moves to another county in this State, the~~When the Division receives notice from a sheriff that a person required to register is moving to another county in the State, the Division shall inform the sheriff of the new county of the person's new residence."

SECTION 10. G.S. 14-208.16(d) reads as rewritten:

"(d) Changes in the ownership of or use of property within 1,000 feet of a registrant's registered address that occur after a registrant establishes residency at the registered address shall not form the basis for finding that an offender is in violation of this section. For purposes of this subsection, a residence is established when the registrant does any of the following:

(1) Purchases the residence or enters into a specifically enforceable contract to purchase the residence.

(2) Enters into a written lease contract for the residence and for as long as the person is lawfully entitled to remain on the premises.

(3) Resides with an immediate family member who established residence in accordance with this subsection. For purposes of this subsection, "immediate family member" means a ~~child, sibling, or parent~~child or sibling who is 18 years of age or older, or a parent, grandparent, legal guardian, or spouse of the registrant."

SECTION 11. G.S. 14-208.43 is amended by adding a new subsection to read:

"(d1) Notwithstanding the provisions of this section, if the Commission is notified by the Department of Correction that the offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order the termination of the monitoring requirement."

SECTION 12. G.S. 14-208.45 reads as rewritten:

"§ **14-208.45. Fees.**

(a) ~~There shall be~~Except as provided in subsections (b) and (b1) of this section, each person required to enroll pursuant to this Part shall pay a one-time fee of ninety dollars ~~($90.00) assessed to each person required to enroll pursuant to this Part.~~($90.00). The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Department of Correction. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system.

(b) When a court determines a person is required to enroll pursuant to G.S. 14-208.40A, the~~The~~ court may exempt a person from paying the fee required by subsection (a) of this section only for good cause and upon motion of the person ~~placed on~~required to enroll in satellite-based monitoring. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods.~~methods if the officer is authorized by subsection (c) of this section to determine the payment schedule. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system.~~

(c) When a person is required to enroll based on a determination by the Department pursuant to G.S. 14-208.40B, the Department shall have the authority to exempt the person from paying the fee only for good cause and upon request of the person required to enroll in satellite-based monitoring. The Department may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods.

~~(b) The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Department of Correction.~~

~~(c) If a person placed on supervised probation, parole, or post-release supervision is required as a condition of that probation, parole, or post-release supervision to pay any moneys to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule.~~"

SECTION 13. G.S. 14-208.41 reads as rewritten:

"§ **14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of enrollment.**

(a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based monitoring program with the Division of Community Corrections office in the county

where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the registration period imposed under G.S. 14-208.23 which is the person's life, unless the requirement to enroll in the satellite-based monitoring program is terminated pursuant to ~~G.S. 14-208.42.~~G.S. 14-208.43.

(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or required by the Department pursuant to G.S. 14-208.40B to enroll in a satellite-based monitoring program shall do so with the Division of Community Corrections office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the ~~court.~~court or the period of time specified by the Department."

SECTION 14. G.S. 143B-266(e) reads as rewritten:

"(e) The Commission may accept and review requests from persons placed on probation, parole, or post-release supervision to terminate a mandatory condition of satellite-based monitoring as provided by ~~G.S. 14-208.42.~~G.S. 14-208.43. The Commission may grant or deny those requests in compliance with ~~G.S. 14-208.42.~~G.S. 14-208.43."

SECTION 15. Section 2 of this act becomes effective December 1, 2007, and applies to sentences entered on or after that date. Section 6 of this act becomes effective December 1, 2007, and applies to offenses committed on or after that date. Sections 7, 8, and 9 of this act become effective December 1, 2007, and apply to persons placed on probation, parole, or post-release supervision on or after that date. Section 9A becomes effective December 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2007.

Became law upon approval of the Governor at 7:51 p.m. on the 11th day of July, 2007.

Session Law 2007-214 **House Bill 530**

AN ACT AUTHORIZING HARNETT COUNTY TO CONSTRUCT WATER TREATMENT PLANT AND WASTEWATER TREATMENT PLANT EXPANSION PROJECTS WITHOUT COMPLYING WITH SPECIFIED PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Harnett County may contract for the design and construction of water treatment and wastewater treatment plant expansion projects for the purpose of providing services to Fort Bragg and the County without being subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32. This authorization includes, if deemed appropriate by the Harnett County Board of County Commissioners, the use of the single-prime contractor method of design and construction, the design-build method of construction, or a request for proposals and negotiation as an alternative design and construction method.

SECTION 2. The Harnett County Board of Commissioners shall interview at least three design-build teams that have submitted proposals for the water treatment plant and wastewater treatment expansion projects. The Board shall, in their best judgment, award the contract to the best qualified contractor, taking into account the

time of completion of the project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

SECTION 3. This act is effective when it becomes law and expires December 31, 2010.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-215 **House Bill 638**

AN ACT TO AUTHORIZE THE CITY OF KING AND THE TOWN OF MAIDEN TO ALLOW LAW ENFORCEMENT OFFICERS AND MUNICIPAL EMPLOYEES TO USE ALL-TERRAIN VEHICLES ON HIGHWAYS WITH POSTED SPEED LIMITS OF THIRTY-FIVE MILES PER HOUR OR LESS AND TO USE GOLF CARTS ON PUBLIC STREETS AND HIGHWAYS, OR ANY PROPERTY OWNED OR LEASED BY THE CITY OR TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-114.4. Law enforcement and municipal employee all-terrain vehicles permitted on highways with speed limits of 35 miles per hour or less; golf carts on property owned or leased by a municipality.**

Law enforcement officers enforcing the laws of the State and municipal employees may use all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by the municipality, on public highways where the speed limit is 35 miles per hour or less. Law enforcement officers and municipal employees may operate all-terrain vehicles on nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less. Law enforcement officers and municipal employees may also operate golf carts as defined in G.S. 20-4.01(12a) and owned or leased by the municipality on public streets or highways within the city limits and on any property owned or leased by the city for the purposes of conducting official city business."

SECTION 2. This act applies to the City of King and the Town of Maiden only.

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

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-216 **House Bill 619**

AN ACT AUTHORIZING THE TOWN OF LOUISBURG TO DECLARE RESIDENTIAL AND NONRESIDENTIAL BUILDINGS IN COMMUNITY DEVELOPMENT TARGET AREAS UNSAFE AND TO REMOVE OR DEMOLISH THOSE BUILDINGS, AND TO EXEMPT THE TOWN FROM THE COMPETITIVE BIDDING REQUIREMENTS FOR THE LOUISBURG ECONOMIC DEVELOPMENT PROJECT.

The General Assembly of North Carolina enacts:

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

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

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

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

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

SECTION 3. The Town of Louisburg may contract for construction of the Louisburg Economic Development Project without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132 provided that:

(1) The Town Council adopts a resolution approving the exemption of the Louisburg Economic Development Project from the competitive bidding requirements of Article 8 of Chapter 143 of the General Statutes;

(2) The Town Council conducts an annual independent audit of all contracts for construction work that would otherwise be subject to the competitive bidding requirements of Article 8 of Chapter 143 of the General Statutes;

(3) The Town Council makes public any contracts awarded pursuant to this act;

(4) The Town Council, after awarding a contract pursuant to this act, prepares, places in the public files, and makes available to the public a document setting forth the reasons for using the authority granted by this act to award the contract; and

(5) The Louisburg Economic Development Project complies with all applicable local zoning and land use regulations.

SECTION 4. This act is effective when it becomes law. Section 3 of this act shall expire January 1, 2009.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-217 **House Bill 635**

AN ACT AUTHORIZING THE RANDOLPH COUNTY BOARD OF COMMISSIONERS TO OBTAIN CERTIFIED AUDITS OF VOLUNTEER FIRE

DEPARTMENTS, NONPROFIT CORPORATIONS, AND VOLUNTEER ORGANIZATIONS THAT RECEIVE AD VALOREM TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. The county board of commissioners may, by resolution, order a certified audit of any volunteer fire department, nonprofit corporation, or volunteer organization in the county that receives ad valorem taxes. As used in this section, the term "certified audit" means an audit in which a certified public accountant expresses his or her professional opinion that the accompanying statements fairly present the financial position of the volunteer fire department, nonprofit corporation, or volunteer organization in conformity with generally accepted accounting principles.

SECTION 2. This act applies to Randolph County only.

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

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-218 **Senate Bill 226**

AN ACT TO ALLOW THE CITY OF WILMINGTON TO USE CIVILIAN TRAFFIC INVESTIGATORS TO INVESTIGATE PROPERTY DAMAGE CRASHES.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to the City of Wilmington only.

SECTION 2. Notwithstanding any other provision of law, the City of Wilmington is hereby authorized to employ and allow civilian personnel to investigate traffic crashes. The civilian personnel shall be known as "Civilian Traffic Investigators".

SECTION 3. The City of Wilmington shall establish the minimum standards for employment as a Civilian Traffic Investigator.

SECTION 4. Each Civilian Traffic Investigator shall attend a training program designed by Cape Fear Community College, Office of Continuing Education for Law Enforcement Training, in consultation with the North Carolina Justice Academy. Upon completion of the training program, a Civilian Traffic Investigator shall spend not less than four weeks of field training with a law enforcement officer who has experience conducting traffic crash investigations.

SECTION 5. Each Civilian Traffic Investigator shall be issued credentials by the City of Wilmington identifying the individual as a Civilian Traffic Investigator. The Civilian Traffic Investigator shall produce official credentials at any time when requested by a member of the public involved in or as a witness to a crash. A Civilian Traffic Investigator shall be issued a uniform that is substantially different in color and style from that of a law enforcement officer for the City of Wilmington. The uniform shall have patches that clearly identify the individual as a Civilian Traffic Investigator. The individual's name shall be clearly displayed on the uniform. Civilian Traffic Investigators shall not be issued badges.

SECTION 6. Any vehicles issued to, or used by, a Civilian Traffic Investigator shall not bear markings or symbols that identify the vehicle as a police vehicle. The vehicle may have emergency equipment and lights installed but shall not use blue lights in any manner or form. Red and amber lights are permissible.

SECTION 7. Civilian Traffic Investigators shall investigate crashes involving only property damage. A Civilian Traffic Investigator shall comply with all provisions of G.S. 20-166.1. A report completed by a Civilian Traffic Investigator shall be treated the same as if it were completed by a law enforcement officer for the purposes of G.S. 20-166.1(i). A law enforcement officer shall investigate any crash involving personal injury or a fatality.

SECTION 8. A Civilian Traffic Investigator shall have no authority to arrest or issue criminal process. A Civilian Traffic Investigator shall not be issued a weapon of any type.

SECTION 9. A Civilian Traffic Investigator shall have the same authority as a law enforcement officer to tow or remove a vehicle that is obstructing a public street or highway.

SECTION 10. Not later than December 31, 2008, the City of Wilmington shall deliver to the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Committee on Appropriations on Justice and Public Safety a written report on the training and use of Civilian Traffic Investigators for the period commencing on the effective date of this act and concluding November 1, 2008.

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-219 **Senate Bill 607**

AN ACT AUTHORIZING THE CITY OF DURHAM TO ORDER DWELLINGS DETERMINED UNFIT FOR HUMAN HABITATION REPAIRED OR DEMOLISHED AFTER A PERIOD OF SIX MONTHS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(b) of S.L. 2004-98 reads as rewritten:

"**SECTION 1.(b)** This section applies to the ~~City~~ Cities of Durham and Winston-Salem only."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-220 **Senate Bill 608**

AN ACT AUTHORIZING THE CITY OF DURHAM TO EXPEDITE REMOVAL OF REFUSE AND DEBRIS, AND OVERGROWN VEGETATION, BY AMENDING THE DEFINITION OF CHRONIC VIOLATOR.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-133 reads as rewritten:

"**SECTION 1.** A municipality may notify a chronic violator of the municipality's refuse and debris ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality may, without further notice in the calendar year in which the notice is given, take action to remedy the violation, and the expense of the

action shall become a lien upon the violator's property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. Under this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least ~~three~~ two times under the refuse and debris ordinance."

SECTION 2. G.S. 160A-200(a) reads as rewritten:

"(a) A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least ~~three~~ two times under the overgrown vegetation ordinance."

SECTION 3. This act applies to the City of Durham only.

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-221 **House Bill 464**

AN ACT TO AUTHORIZE THE COUNTIES OF BURKE, CASWELL, GREENE, JONES, AND WAYNE TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31(b) reads as rewritten:

"(b) Applicability. – This section applies only to Anson, Beaufort, Bertie, Burke, Cabarrus, Camden, Carteret, Caswell, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, and Yadkin Counties."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-222 **House Bill 483**

AN ACT TO DEFINE A UNIFORM PROGRAM OF PUBLIC CAMPAIGN FINANCING AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO CONDUCT SUCH A PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.6 is amended by adding a new subdivision to read:

"(17a) The term 'public campaign financing program' means a uniform program of a governmental entity that offers support for the campaigns of candidates for elective office within the jurisdiction of that governmental entity under the following conditions: (i) the candidates participating in the program must demonstrate public support and voluntarily accept strict fund-raising and spending limits in accordance with a set of requirements drawn by that government, (ii) the requirements are drawn to further the public purpose of free and fair elections and do not discriminate for or against any candidate on the basis of race, creed, position on issues, status of incumbency or nonincumbency, or party affiliation, (iii) any public funds provided to candidates are restricted to use for campaign purposes according to guidelines drawn by the State Board of Elections, and (iv) unspent public funds are required to be returned to that governmental entity. Funds paid pursuant to such a program are not subject to the contribution limitations of G.S. 163-278.13 and the prohibitions on corporate contributions of G.S. 163-278.15 or G.S. 163-278.19 but shall be reported as if they were contributions in all campaign reports required by law to be filed by the campaigns receiving the payments."

SECTION 2. Article 21 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-499.1. Uniform, nondiscriminatory program of public financing of election campaigns.**

(a) A governing body of a city may appropriate funds for a public campaign financing program as defined in G.S. 163-278.6(17a) for city office in that city's jurisdiction if the city has held at least one public hearing on the program before adopting it and the program is approved by the State Board of Elections. The State Board of Elections shall develop guidelines for the basic components needed in a program to meet the criteria set forth in G.S. 163-278.6(17a) and shall approve a city's program that meets the criteria. Any city exercising authority under this section shall provide full notice to the county board of elections in any county in which it has territory.

(b) The governing body of a city appropriating funds as provided by this section shall prepare a report no later than six months after the second election in which it appropriates funds under this section that analyzes its experience in implementing a public campaign financing program by that date, including percent of candidates participating in a program, sources and amounts of funding, litigation involving a program, administrative issues, and recommendations for changes in this statute. The report shall be presented by that date to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the Legislative Services Office, and to the committees in the House of Representatives and Senate to which election-related bills are primarily referred."

SECTION 3. This act applies to the Town of Chapel Hill only.

SECTION 4. This act is effective when it becomes law and expires July 1, 2012.

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-223 **House Bill 792**

AN ACT TO AUTHORIZE NORTHAMPTON COUNTY TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Northampton County may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Northampton County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Northampton County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Northampton County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Northampton County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Northampton County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling

of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Northampton County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. Administrative provisions. – G.S. 153A-155(g) reads as rewritten:

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

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-224 **Senate Bill 442**

AN ACT TO AUTHORIZE CASWELL COUNTY AND THE TOWN OF YANCEYVILLE TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

CASWELL COUNTY

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Caswell County may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Caswell County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 1.(d) Distribution and Use of Tax Revenue. – Caswell County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Caswell County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Caswell County and shall use the remainder for tourism-related expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Caswell County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Caswell County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

TOWN OF YANCEYVILLE

SECTION 3. Occupancy tax. – (a) Authorization and Scope. – The Yanceyville Town Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 3.(c) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Yanceyville Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 3.(d) Distribution and Use of Tax Revenue. – The Town of Yanceyville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Yanceyville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Yanceyville and shall use the remainder for tourism-related expenditures.

SECTION 4. Tourism Development Authority. – (a) Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Yanceyville Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for the Town of Yanceyville shall be the ex officio finance officer of the Authority.

SECTION 4.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 3 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor

tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 4.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Yanceyville Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

ADMINISTRATIVE PROVISIONS

SECTION 5. G.S. 153A-155(g) reads as rewritten:

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

SECTION 6. G.S. 160-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Mooresville, North Topsail Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, ~~and Wrightsville Beach,~~ Wrightsville Beach, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

EFFECTIVE DATE

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-225 **House Bill 1250**

AN ACT REMOVING THE CAP ON SATELLITE ANNEXATIONS FOR THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

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

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

...

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury,

Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

In the General Assembly read three times and ratified this the 17th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-226 **House Bill 401**

AN ACT TO AUTHORIZE COUNTY WATER AND SEWER DISTRICTS TO ENGAGE IN INSTALLMENT PURCHASE FINANCING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-20(h) reads as rewritten:

"(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

(1) A county.

(2) A city.

(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

(3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.

(3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

(3c) A county water and sewer district created under Article 6 of Chapter 162A of the General Statutes.

(4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.

(5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.

(5b) A local airport authority that was created pursuant to a local act of the General Assembly.

(6) A local school administrative unit whose board of education is authorized to levy a school tax.

(6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

(8) A consolidated city-county, as defined by G.S. 160B-2(1).

(9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.

(10) A regional natural gas district, as defined by Article 28 of this Chapter.

(11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.

(12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

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

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:30 a.m. on the 18th day of July, 2007.

Session Law 2007-227 **House Bill 1086**

AN ACT AUTHORIZING CUSTOMER USAGE TRACKING RATE ADJUSTMENT MECHANISMS FOR NATURAL GAS LOCAL DISTRIBUTION COMPANY RATES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 62 of the General Statutes is amended by adding the following new section to read:

"**§ 62-133.7. Customer usage tracking rate adjustment mechanisms for natural gas local distribution company rates.**

In setting rates for a natural gas local distribution company in a general rate case proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a rate adjustment mechanism for one or more of the company's rate schedules, excluding industrial rate schedules, to track and true-up variations in average per customer usage from levels approved in the general rate case proceeding. The Commission may adopt a rate adjustment mechanism only upon a finding by the Commission that the mechanism is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding and that the mechanism is in the public interest."

SECTION 2. The Utilities Commission shall report to the Joint Legislative Utility Review Committee on the orders issued pursuant to G.S. 62-133.7 and the results obtained under those orders, as well as results obtained from the customer usage tracking component of the Commission's order issued in Docket G-9, Sub 499. The first report shall be delivered not later than July 1, 2008, and cover the period beginning

with the effective date of this act and ending June 1, 2008. Thereafter, the Commission shall report as required by the Committee.

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

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:36 a.m. on the 18th day of July, 2007.

Session Law 2007-228 **Senate Bill 881**

AN ACT TO DEFINE THE RESIDENCY REQUIREMENTS FOR LICENSURE UNDER THE LAWS PERTAINING TO BAIL BONDSMEN AND RUNNERS AND TO MAKE OTHER STYLISTIC CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-71-1 reads as rewritten:

"§ **58-71-1. Definitions.**

~~The following words when used in this Article shall have the following meanings:~~ The following definitions apply in this Article:

(1) ~~"Accommodation bondsman" is a~~ Accommodation bondsman. – A person who shall not charge a fee or receive any consideration for action as surety and who endorses the bail bond after providing satisfactory evidences of ownership, value, and marketability of real or personal property to the extent necessary to reasonably satisfy the official taking bond that the real or personal property will in all respects be sufficient to assure that the full principal sum of the bond will be realized if there is a breach of the conditions of the bond. "Consideration" as used in this subdivision does not include the legal rights of a surety against a principal by reason of breach of the conditions of a bail bond nor does it include collateral furnished to and securing the surety as long as the value of the surety's rights in the collateral do not exceed the principal's liability to the surety by reason of a breach in the conditions of the bail bond.

(2) ~~"Bail bond" shall mean an~~ Bail bond. – An undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State in a stated amount; and may include an unsecured appearance bond, a premium-secured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage pursuant to G.S. 58-74-5, and an appearance bond secured by at least one surety. A bail bond may also include a bond securing the return of a motor vehicle subject to forfeiture in accordance with G.S. 20-28.3(e).

(3) ~~"Bail bondsman" shall mean a~~ Bail bondsman. – A surety bondsman, professional bondsman or an accommodation bondsman as ~~hereinafter defined.~~defined in this section.

(4) ~~"Commissioner" shall mean the~~ Commissioner. – The North Carolina Commissioner of Insurance.

(4a) ~~"First-year licensee" means any~~ First-year licensee. – Any person who has been licensed as a bail bondsman or runner under this Article and who has held the license for a period of less than 12 months.

(5) ~~"Insurer" shall mean any~~ Insurer. – Any domestic, foreign, or alien surety company which has qualified generally to transact surety business and specifically to transact bail bond business in this State.

(6) ~~"Obligor" shall mean a~~ Obligor. – A principal or a surety on a bail bond.

(7) ~~"Principal" shall mean a~~ Principal. – A defendant or witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond or a person obligated to return a motor vehicle subject to forfeiture in accordance with G.S. 20-28.3(e).

(8) ~~"Professional bondsman" shall mean any~~ Professional bondsman. – Any person who is approved and licensed by the Commissioner and who pledges cash or approved securities with the Commissioner as security for bail bonds written in connection with a judicial proceeding and who receives or is promised money or other things of value ~~therefor.~~in exchange for writing the bail bonds.

(8a) Resident. – A person who lives in this State for at least six consecutive months immediately before applying for a license under this Article.

(9) ~~"Runner" shall mean a~~ Runner. – A person employed by a bail bondsman for the purpose of assisting the bail bondsman in presenting the defendant in court when required, ~~or to assist~~assisting in the apprehension and surrender of defendant to the court, ~~or~~ keeping the defendant under necessary surveillance, or ~~to execute~~ executing bonds on behalf of the licensed bondsman when the power of attorney has been duly recorded. "Runner" does not ~~include, however,~~ include a duly licensed attorney-at-law or a law-enforcement officer assisting a bondsman.

(9a) ~~"Supervising bail bondsman" means any~~ Supervising bail bondsman. – Any person licensed by the Commissioner as a professional bondsman or surety bondsman who employs or contracts with any new licensee under this Article.

(10) ~~"Surety" shall mean one~~ Surety. – One who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.

(11) ~~"Surety bondsman" means any~~ Surety bondsman. – Any person who is licensed by the Commissioner as a surety bondsman under this Article, is appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and who receives or is promised consideration for doing so."

SECTION 2. G.S. 58-71-50(b) reads as rewritten:

"(b) Every applicant for a license under this Article as a bail bondsman or runner must meet all of the following qualifications:

(1) Be 18 years of age or over.

(2) Be a resident of this State.

(3) Repealed by Session Laws 1998-211, s. 23.

(4) Have knowledge, training, or experience of sufficient duration and extent to provide the competence necessary to fulfill the responsibilities of a licensee.
(5) Have no outstanding bail bond obligations.
(6) Have no current or prior violations of any provision of this Article or of Article 26 of Chapter 15A of the General Statutes or of any similar provision of law of any other state.
(7) Not have been in any manner disqualified under the laws of this State or any other state to engage in the bail bond business.
(8) Hold a valid and current North Carolina drivers license or valid North Carolina identification card issued by the Division of Motor Vehicles."

SECTION 3. G.S. 58-71-50 is amended by adding a new subsection to read:

"(c) An applicant for a license as a bail bondsman or runner shall provide to the Commissioner at least two of the following documents as proof of residency in this State:

(1) A pay stub showing the applicant's residential address in this State.
(2) A utility bill showing the applicant's residential address in this State.
(3) A written lease agreement or contract for purchase and sale signed by the applicant and for a residence located in this State.
(4) A receipt for personal property taxes paid by the applicant to a North Carolina unit of local government.
(5) A receipt for real property taxes paid by the applicant to a North Carolina unit of local government.
(6) A monthly or quarterly statement showing the applicant's residential address in this State and issued by a financial institution for an account held by the applicant.

Subject to rules adopted by the Commissioner, an applicant may be required to provide additional documentation as proof of residency in this State."

SECTION 4. This act becomes effective October 1, 2007, and applies to applications for licensure made on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:45 a.m. on the 18th day of July, 2007.

Session Law 2007-229 **House Bill 1132**

AN ACT TO AUTHORIZE THE PAYMENT OF A PER DIEM TO PUBLIC HEALTH AUTHORITY BOARDS AND TO AUTHORIZE PUBLIC HEALTH AUTHORITY BOARDS TO ENTER INTO INSTALLMENT CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-45.1(k) reads as rewritten:

"(k) ~~Board members shall receive no compensation for their services, but they shall be entitled to reimbursement for subsistence and travel expenses incurred in the discharge of their duties.~~ Board members may receive per diem in an amount established by the county commissioner members of the Public Health Authority Board. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county commissioner members of the Public Health Authority Board."

SECTION 2. G.S. 130A-45.3(a) is amended by adding a new subdivision to read:

"(a) A public health authority shall have all the powers necessary or convenient to carry out the purposes of this Part, including the following powers to:

…

(18) To purchase or finance real or personal property in the manner provided for cities and counties under G.S. 160A-20."

SECTION 3. G.S. 160A-20(h) is amended by adding a new subdivision to read:

"(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

…

(13) A public health authority created under Part 1B of Article 2 of Chapter 130A of the General Statutes."

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

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:46 a.m. on the 18th day of July, 2007.

Session Law 2007-230 **House Bill 642**

AN ACT AMENDING THE LAW RELATING TO COMMUNITY COLLEGE PERFORMANCE STANDARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-31.3 reads as rewritten:

"§ **115D-31.3. ~~Performance budgeting.~~Institutional performance accountability.**

(a) Creation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall create new accountability measures and performance standards ~~to be used for performance budgeting~~ for the Community College System. Survey results shall be used as a performance standard only if the survey is statistically valid. The State Board of Community Colleges shall review annually the accountability measures and performance standards to ensure that they are appropriate for use in ~~performance budgeting.~~recognition of successful institutional performance.

(b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

(e) Mandatory Performance ~~Measures.~~Standards. – The State Board of Community Colleges shall evaluate each college on the following ~~12~~ eight performance standards:

(1) Progress of basic skills students,

(2) Passing rate for licensure and certification examinations,

~~(3) The proportion of those who complete their goal,~~

~~(4) Employment status of graduates,~~

~~(5)~~(3) Performance of students who transfer to ~~the university system,~~a four-year institution,

~~(6)~~(4) Passing rates in developmental courses,

~~(7)~~(5) Success rates of developmental students in subsequent college-level courses,

~~(8)~~(6) The level of satisfaction of students who complete programs and those who do not complete programs,

~~(9)~~(7) Curriculum student retention and graduation, and

~~(10) Employer satisfaction with graduates,~~

~~(11)~~(8)Client satisfaction with customized ~~training, and~~training.

~~(12) Program enrollment.~~

The State Board may also evaluate each college on additional performance standards.

(f) Publication of Performance Ratings. – Each college shall publish its performance on the ~~12~~ eight ~~measures~~ standards set out in subsection (e) of this section (i) annually in its electronic catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

The Community Colleges System Office shall publish the performance of all colleges on all ~~12 measures in its annual Critical Success Factors Report.~~eight standards.

(g) ~~Performance Budgeting; ~~Recognition for Successful Institutional Performance. – ~~For the purpose of For the purpose of performance budgeting,~~recognition for successful institutional performance, the State Board of Community Colleges shall evaluate each college on ~~six performance measures. These six shall be the five set out in subdivisions (1) through (5) of subsection (e) of this section and one selected by the college from the remainder set out in subdivisions (6) through (11).~~the eight performance standards. For each of these ~~six~~ eight performance ~~measures~~standards on which a college performs successfully, ~~successfully or attains the standard of significant improvement,~~ the college may retain and carry forward into the next fiscal year ~~one-third of one percent (1/3 of 1%)~~one-fourth of one percent (1/4 of 1%) of its final fiscal year General Fund appropriations. If a college demonstrates significant improvement on a standard that has been in use for three years or less, the college may also carry forward one-fourth of one percent (1/4 of 1%) of its final fiscal year General Fund appropriations for that standard.

(h) ~~Performance Budgeting; ~~Recognition for ~~Superior~~ Exceptional Institutional Performance. – Funds not allocated to colleges in accordance with subsection (g) of this section shall be used to reward ~~superior~~ exceptional institutional performance. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds equally to colleges that perform successfully on ~~at least five of the six~~eight performance ~~measures.~~standards and meet the following criteria:

(1) The passing rate on all reported licensure and certification examinations for which the community colleges have authority over who sits for the examination must meet or exceed seventy percent (70%) for first-time test takers; and

(2) The percentage of college transfer students with a grade point average of at least 2.0 after two semesters at a four-year institution must equal or exceed the performance of students who began college at that four-year institution.

The State Board may withhold the portion of funds for which a college may qualify as an exceptional institution while the college is under investigation by a State or federal agency or if its performance does not meet the standards established by the Southern Association of Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges. The State Board may release the funds at such time as the investigations are complete and the issues are resolved.

(i) Permissible Uses of Funds. – Funds retained by colleges or distributed to colleges pursuant to this section shall be used for the purchase of equipment, initial program start-up costs including faculty salaries for the first year of a program, and one-time faculty and staff bonuses. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.

(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is located:

(1) Is designated as a Tier 1 or Tier 2 county in accordance with G.S. 105-129.3;

(2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar year; and

(3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

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

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:48 a.m. on the 18th day of July, 2007.

Session Law 2007-231 **House Bill 680**

AN ACT TO MAKE TECHNICAL AND OTHER CHANGES TO THE UNIFORM BOILER AND PRESSURE VESSEL ACT AND TO REVISE SERVICE REQUIREMENTS TO CONFORM WITH RULE 4 OF THE NORTH CAROLINA RULES OF CIVIL PROCEDURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 95-69.10 reads as rewritten:

"§ **95-69.10. Application of Article; exemptions.**

(a) This Article shall apply to all boilers and pressure vessels constructed, used, or designed for operation in this State including all new and existing installations which are operated in connection with business buildings, institutional buildings, industrial buildings, assembly buildings, educational buildings, public residential buildings, recreation buildings, other public buildings, and water supplies. This Article shall also apply to boilers and hot water supply tanks, and heaters located in hotels, motels, tourist courts, camps, cottages, resort lodges, and similar places whenever the owner or operator advertises in any manner for transit patronage, or solicits such business for temporary abode by transit patrons.

(b) This Article shall not apply to:

(1) Boilers and pressure vessels owned or operated by the federal government, unless the agency in question has asked for coverage by this Article.

(2) Pressure vessels used for transportation or storage of compressed gases when constructed in compliance with the specifications of the United States Department of Transportation and when charged with gas marked, maintained, and periodically requalified for use, as required by appropriate regulations of the United States Department of Transportation.

(3) Portable pressure vessels used for agricultural purposes only or for pumping or drilling in an open field for water, gas or coal, gold, talc, or other minerals and metals.

(4) Boilers and pressure vessels which are located in private residences or in apartment houses of less than six families.

(5) ~~Pressure vessels used for transportation or storage of liquified petroleum gas.~~

(6) Air tanks located on vehicles licensed under the rules and regulations of other state authorities operating under rules and regulations substantially similar to those of this State and used for carrying passengers or freight within interstate commerce.

(7) Air tanks installed on right-of-way of railroads and used directly in the operation of trains.

(8) Any of the following pressure vessels that do not exceed the listed limitations if the vessel is not equipped with a quick actuating closure:
   a. Five cubic feet in volume and 250 psig.
   b. Three cubic feet in volume and 350 psig.
   c. One and one-half cubic feet in volume and 600 psig.
   d. An inside diameter of six inches with no limitation on pressure.

(9) Pressure vessels operating at a working pressure not exceeding 15 psig.

(10) Pressure vessels with a nominal water capacity not exceeding 120 gallons and containing water under pressure at temperatures not exceeding 120° F, including those containing air, the compression of which serves as a cushion.

(11) Boilers and pressure vessels on railroad steam locomotives that are subject to federal ~~safety regulations.~~railway safety regulations pursuant to 49 C.F.R. § 230.

(12) Repealed by Session Laws 1985, c. 620, s. 2.

(13) Coil-type hot water supply boilers, generally referred to as steam jennies, where the water can flash into steam when released directly to the atmosphere through a manually operated nozzle and where adequate safety relief valves and controls are installed on them, provided none of the following limitations are exceeded:
   a. There is no drum, header, or other steam space.
   b. No steam is generated within the coil.
   c. Maximum 1 inch tube size.
   d. Maximum ¾ inch nominal pipe size.
   e. Maximum 6 gallon nominal water storage capacity.
   f. Water temperature of 350°F.

(14) Pressure vessels containing water at a temperature not exceeding 110 degrees fahrenheit except that this provision shall not exclude hydropneumatic pressure vessels from regulation.

(15) An air tank that does not exceed eight cubic feet in volume that is installed on a service vehicle.

(16) Autoclaves in medical offices and hospitals that are less than five cubic feet in volume, even if they are equipped with a quick actuating closure.

(17) Coil-type hot water supply boilers of the instantaneous type where adequate safety relief valves and controls are installed if none of the following limitations are exceeded:

a. There is no drum, header, or other steam space.
b. No steam is generated within the coil.
c. Maximum one-inch tube size.
d. Maximum three-quarter-inch nominal pipe size.
e. Maximum six-gallon nominal water storage capacity.
f. Water temperature not to exceed 250°F.
g. Maximum heat input does not exceed 400,000 Btu/hr or 110 kW.
h. Maximum pressure of 260 psig.

(18) Toy boilers, if all of the following apply:

a. The water containing volume of the boiler is less than one quart.
b. The operating pressure does not exceed 15 psig.
c. The maximum outside diameter of the shell is no greater than six inches.
d. The boiler is manually fired by solid fuels.

(19) Pressure vessels associated with electrical apparatus in electrical switchyards if the pressure vessels have proper pressure relief devices.

(20) Carbon dioxide tanks used in beverage dispensing service.

(c) The construction and inspection requirements established by the Department of Labor shall not apply to hot water supply boilers which are directly fired with oil, gas or electricity, or hot water supply tanks heated by steam or any other indirect means, which do not exceed any of the following limitations:

(1) Heat input of 200,000 Btu/hr or 58.6 kW.
(2) Repealed by Session Laws 2005-453, s. 2.
(3) Nominal water capacity of 120 gallons.

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(d) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1981, that:

(1) Are of one-piece, unwelded, forged construction;

(2) Are constructed before January 1, 1981, and operating or could be operated, under the laws of any state or Canadian Province that has adopted one or more sections of the ASME Code;

(3) Are transferred into this State without a change of ownership; and

(4) Are determined by the Chief Inspector to be constructed under standards substantially equivalent to those established by the department at the time of transfer;

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(e) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1984, that:

(1) Are manufactured from gray iron casting material, as specified by the American Society for Testing and Materials, (ASTM) 48-60T/30;

(2) Are constructed before December 31, 1967, and operating or could be operated, under the laws of any state or Canadian Province that has adopted one or more sections of the ASME Boiler and Pressure Vessel Code;

(3) Are transferred into this State without a change of ownership; and

(4) Are determined by the Chief Inspector to be constructed under standards substantially equivalent to those established by the department at the time of transfer;

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(f) The construction requirements established by the Department of Labor shall not apply to hydropneumatic tanks installed or operated by a community water system prior to January 1, 1986.

(g) The inspection requirements established by the Department of Labor shall not apply to pressure vessels used for transportation or storage of liquefied petroleum gas that are subject to inspection in accordance with the requirements established by the Department of Agriculture and Consumer Services."

SECTION 2. G.S. 95-69.15 reads as rewritten:

"§ **95-69.15. Classification of inspectors; qualifications; examinations; ~~certificates of competency;~~ inspector's commission.**

(a) There shall be three types of inspectors authorized to conduct inspections and report their findings to the Chief Inspector under this Article:

(1) Boiler and Pressure Vessel Inspector or Deputy Inspector. – Shall be a qualified individual, employed by the Department of Labor and appointed by the Commissioner, to assist in conducting inspections under this Article and report on the suitability of boilers and pressure vessels so inspected.

(2) Special Inspector or Insurance Inspector. – Shall be a qualified individual regularly employed by an insurance company authorized to insure in this State against injury to person or property or both from explosions and accidents involving boilers and pressure vessels. Special Inspectors shall not include employees of private contract inspection agencies.

(3) Owner-User Inspectors. – Shall be a qualified individual employed on a full-time basis by a company operating pressure vessels for its own use and not for resale, and maintains an established inspection program for periodic inspection of pressure vessels owned or used by that company and where such inspection program is under the supervision of one or more engineers having qualifications satisfactory to the Commissioner.

(b) Inspector's Commission. – Any company authorized to insure in this State against loss to person or property as a result of an explosion or accident involving boilers and pressure vessels or operating boilers or pressure vessels or both for its own

use and not for resale, may apply for the issuance of an inspector's commission for an individual within its employ who has a commission from the National Board.

A North Carolina commission authorizes an inspector to make inspections on boilers and pressure vessels and report on the suitability of said boilers and pressure vessels to the Chief Inspector. Those inspectors holding commissions as special inspectors shall be limited to making inspections on boilers and pressure vessels insured by their employer. Owner-user inspectors shall be limited to conducting inspections on boilers and pressure vessels operated by their respective employers.

A person seeking a commission from this State to conduct in-service inspections of boilers and pressure vessels must take and pass an examination on this Article and the rules adopted pursuant to this Article prior to receiving the commission. Any person who has had a commission in this State but who has been inactive for more than one year must take or retake and pass the State examination before conducting further in-service inspections of boilers and pressure vessels.

~~(c) Certificates of Competency. – Certificates of competency may be issued by the Chief Inspector to those persons who take and pass a National Board commissioning examination administered by the Board.~~"

SECTION 3. G.S. 95-69.16 reads as rewritten:

"§ **95-69.16. Inspection certificate required.**

All boilers and pressure vessels subject to the provisions of this Article shall be inspected by a commissioned inspector. The Commissioner may determine both the frequency and the method of inspection. In determining the frequency of inspection, the Commissioner shall give due consideration to the hazard involved and the need for the protection of the public. The method of inspection must provide an adequate procedure to insure the safety of individuals likely to be injured by an explosion or accident involving a boiler or pressure vessel.

No boiler or pressure vessel may be operated without an inspection certificate, except pressure vessels being operated under an owner-user provision where administrative procedures of equal safety and competency have been approved by the Board and Commissioner. No more than ~~90~~60 days grace period may be granted beyond the certificate expiration date."

SECTION 4. G.S. 95-25.23(a) reads as rewritten:

"(a) Any employer who violates the provisions of G.S. 95-25.5 (Youth Employment) or any regulation issued thereunder, shall be subject to a civil penalty not to exceed two hundred fifty dollars ($250.00) for each violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail ~~or~~ with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of Chapter 150B."

SECTION 5. G.S. 95-25.23A(a) reads as rewritten:

"(a) Any employer who violates the provisions of G.S. 95-25.15(b) or any regulation issued pursuant to G.S. 95-25.15(b), shall be subject to a civil penalty of up to two hundred fifty dollars ($250.00) per employee with the maximum not to exceed

one thousand dollars ($1,000) per investigation by the Commissioner or his authorized representative. In determining the amount of the penalty, the Commissioner shall consider:

(1) The appropriateness of the penalty for the size of the business of the employer charged; and

(2) The gravity of the violation.

The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail ~~or~~ with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of Chapter 150B."

SECTION 6. G.S. 95-69.19(d) reads as rewritten:

"(d) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination in which event the final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act."

SECTION 7. G.S. 95-110.10(e) reads as rewritten:

"(e) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail ~~or~~ with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination in which event the final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act."

SECTION 8. G.S. 95-111.13(g) reads as rewritten:

"(g) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail ~~or~~ with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act."

SECTION 9. G.S. 95-123 reads as rewritten:

"§ **95-123. Orders.**

If, after investigation, the Commissioner finds that a violation of any of his rules and regulations exists, or that there is a condition in passenger tramway construction, operation, or maintenance which endangers the safety of the public, the Commissioner shall forthwith issue his written order setting forth his findings, the corrective action to be taken, and fixing a reasonable time for compliance therewith. The order shall be sent to the affected operator by certified mail ~~or~~ with return receipt, by signature

confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, and shall become final unless the operator contests the order by filing a petition for a contested case under G.S. 150B-23 within 20 days after receiving the order. The Commissioner shall have the power to institute injunctive proceedings in any court of competent jurisdiction of the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, in which the passenger tramway is located for the purpose of restraining the operation of said tramway or for compelling compliance with any lawful order of the Commissioner. Judicial review of a final decision under this section may be obtained under Article 4 of Chapter 150B of the General Statutes."

SECTION 10. G.S. 95-137(b) reads as rewritten:

"(b) Procedure for Enforcement. –

(1) If, after an inspection or investigation, the Director issues a citation under any provisions of this Article, the Director shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified ~~mail,~~ mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery of any penalty, if any, the Director has recommended to the Commissioner to be proposed under the provisions of this Article and that the employer has 15 working days within which to notify the Director that the employer wishes to:

a. Contest the citation or proposed assessment of penalty; or

b. Request an informal conference.

Following an informal conference, unless the employer and Department have entered into a settlement agreement, the Director shall send the employer an amended citation or notice of no change. The employer has 15 working days from the receipt of the amended citation or notice of no change to notify the Director that the employer wishes to contest the citation or proposed assessment of penalty, whether or not amended. If, within 15 working days from the receipt of the notice issued by the Director, the employer fails to notify the Director that the employer requires an informal conference to be held or intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employee or representative of employees under the provisions of this Article within such time, the citation and the assessment as proposed to the Commissioner shall be deemed final and not subject to review by any court.

(2) If the Director has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Commission in case of any review proceedings under this Article initiated by the employer in good faith and not solely for a delay or avoidance of penalties), the Director shall notify the employer by certified ~~mail,~~ mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26

U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery of such failure and of the penalty proposed to be assessed under this Article by reason of such failure and that the employer has 15 working days within which to notify the Director that the employer wishes to contest the Director's notification of the proposed assessment of penalty. If, within 15 working days from the receipt of notification issued by the Director, an employer fails to notify the Director that the employer intends to contest the notification or proposed recommendation of penalty, the notification and the proposed assessment made by the Director shall be final and not subject to review by any court.

(3) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(4) If an employer notifies the Director that the employer intends to contest a citation issued under the provisions of this Article or notification issued under the provisions of this Article, or if, within 15 working days of the receipt of a citation under this Article, any employee or representative thereof files a notice with the Director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Director shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing. The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Director's citation or the proposed penalty fixed by the Commissioner, or directing other appropriate relief, and such order shall become final 30 days after its issuance. Upon showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that an abatement has not been completed because of factors beyond the employer's reasonable control, the Director, after an opportunity for a hearing as provided in this Article, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the chairman of the Commission shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this section.

(5) Repealed by Session Laws 1993, c. 300, s. 2.

(6) Each local unit of government shall report each violation for which it is issued a citation to its local governing board at its next public meeting and to its workers compensation insurance carrier or to the risk pool of which it is a member pursuant to Article 23 of Chapter 58 of the General Statutes."

SECTION 11. G.S. 95-234(a) reads as rewritten:

"(a) Any examiner who violates the provisions of this Article shall be subject to a civil penalty of up to two hundred fifty dollars ($250.00) per affected examinee with the maximum not to exceed one thousand dollars ($1,000) per investigation by the Commissioner of Labor or his authorized representative. In determining the amount of the penalty, the Commissioner shall consider:

(1) The appropriateness of the penalty for the size of the business of the employer charged; and

(2) The gravity of the violation.

The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail ~~or~~ with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and which final determination shall be subject to judicial review in a judicial proceeding pursuant to Article 4 of Chapter 150B."

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:49 a.m. on the 18th day of July, 2007.

Session Law 2007-232 **House Bill 1359**

AN ACT TO PROVIDE VETERINARIANS WITH IMMUNITY FROM LIABILITY FOR REPORTING ANIMAL CRUELTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 47 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-360.1. Immunity for veterinarian reporting animal cruelty.**

Any veterinarian licensed in this State who has reasonable cause to believe that an animal has been the subject of animal cruelty in violation of G.S. 14-360 and who makes a report of animal cruelty, or who participates in any investigation or testifies in any judicial proceeding that arises from a report of animal cruelty, shall be immune from civil liability, criminal liability, and liability from professional disciplinary action and shall not be in breach of any veterinarian-patient confidentiality, unless the veterinarian acted in bad faith or with a malicious purpose. It shall be a rebuttable presumption that the veterinarian acted in good faith. A failure by a veterinarian to make a report of animal cruelty shall not constitute grounds for disciplinary action under G.S. 90-187.8."

SECTION 2. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:50 a.m. on the 18th day of July, 2007.

Session Law 2007-233 **House Bill 1414**

AN ACT TO REVISE THE LAW PROVIDING FOR CREDITABLE SERVICE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM FOR MEMBERS WHO SERVED IN THE UNIFORMED SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-4(g) reads as rewritten:

"(g) Teachers and other State employees who served in the ~~armed forces of the United States~~ uniformed services as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4303, and who, after being honorably discharged, returned to the service of the State within a period of two years from date of discharge shall be credited with prior service for such period of service in the ~~armed forces of the United States; and the salaries or compensations paid to such employees immediately before entering the armed forces shall be deemed to be the actual compensation rates of such teachers and State employees during said period of service.~~ uniformed services for the maximum period that they are entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301, et seq., or other federal law, and the salary or compensation of such a teacher or State employee during that period of service is deemed to be that salary or compensation the employee would have received but for the period of service had the employee remained continuously employed, if the determination of that salary or compensation is reasonably certain. If the determination of the salary or compensation is not reasonably certain, then it is deemed to be that employee's average rate of compensation during the 12-month period immediately preceding the period of service."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:51 a.m. on the 18th day of July, 2007.

Session Law 2007-234 **House Bill 1640**

AN ACT TO REPEAL THE PROHIBITION ON THE USE OF MULTICOLOR PROCESS FOR PUBLICATIONS PUBLISHED AT STATE EXPENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-169(b) is repealed.

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

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:54 a.m. on the 18th day of July, 2007.

Session Law 2007-235 **Senate Bill 1118**

AN ACT TO ALLOW THE UNBUNDLING OF VEHICLE LICENSE AND REGISTRATION FEES FROM RENTAL CAR RATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-201 is amended by adding a new subdivision to read:

"(8) "Vehicle license and registration fees" means charges that may be imposed upon any rental transaction originating in this State to recoup the costs incurred by a rental car company to license, title, inspect, and register rental vehicles. Rental car companies shall make a good faith effort to ensure that any vehicle license and registration fees collected

do not exceed the actual costs incurred by the rental car company to license, title, inspect, and register rental vehicles. Any amounts collected by the rental car company in excess of the actual amount of its costs incurred shall be retained by the rental car company and applied to the costs incurred in the next calendar year for licensing, titling, inspecting, and registering rental vehicles. In that event, the good faith estimate of any vehicle license and registration fees to be charged by the company in the next calendar year shall be reduced to take into account the excess amount collected from the prior year."

SECTION 2. G.S. 66-202 reads as rewritten:

"§ **66-202. Rental car advertising.**

(a) Except as set forth in subsections (d) and (e) of this section and G.S. 66-204(a), a rental car company shall only advertise and charge a rental rate that includes the entire amount, except taxes and a mileage charge, if any, that a renter must pay to hire or lease a vehicle for the period of time to which the rental rate applies.

(b) If a rental car company states a rental rate in a print advertisement or in an in-person or computer-transmitted quotation contained in the rental car company's proprietary computer reservation system, the rental car company shall clearly disclose or cause to be disclosed in that advertisement or quotation the terms of any mileage conditions relating to the advertised or quoted rental rate, including, but not limited to: To the extent applicable, the amount of mileage and fuel charges; the number of miles for which no charge will be imposed; and a description of the geographic driving limitations, if any, within the United States and Canada.

(c) A rental car company shall also include in all price advertising the daily rate it charges for collision damage waivers; shall state in such advertising that collision damage waivers are not required; and shall state that prospective renters should examine or inquire about their automobile insurance policies to see whether such policies will cover damage to rental vehicles.

(d) For a rental rate stated in an advertisement, quotation, or reservation for an airport location, a rental car company shall clearly and conspicuously disclose the existence and actual amount of the airport charges or fees, if any. For a rental rate stated in an advertisement, quotation, or reservation involving more than one airport location, a rental car company shall clearly and conspicuously disclose the existence and range of airport charges ~~of~~ or fees, if any, or the maximum airport charge or fee. A rental car company, in its discretion, may elect to separate vehicle license and registration fees from its rental rate. For a rental rate stated in an advertisement, quotation, or reservation with a separate vehicle license and registration fee, a rental company shall clearly and conspicuously disclose the existence and range of vehicle license and registration fees or the maximum vehicle license and registration fee. For purposes of this section, advertisements shall include radio, television, other electronic media, and print. For purposes of this section, quotations and reservations shall include in-person or proprietary computer-transmitted reservation systems.

(e) A rental car company shall clearly and conspicuously display the total estimated price, and the amount of the airport charges or ~~fees~~ fees, if any, and vehicle license and registration fees, if any, in any proprietary computer-assisted reservation system, shown or referenced on the same page on the computer screen viewed by the renter as the displayed rental rate and in a print size not smaller than the print size of the rental rate. ~~A rental car company shall inform the renter of the amount of the airport charges or fees either at the time of making an initial quotation of a rental rate or at the~~

~~time of making a reservation, if the quotation is made by the rental car company for a location at which it collects airport charges or fees.~~When providing a renter a quotation of a rental rate in person or over a voice system, a rental car company shall inform the renter of the total estimated price, inclusive of all taxes, fees, and charges, or shall disclose the amount of airport charges or fees, if any, and vehicle license and registration fees, if any. A rental car company shall separately identify the amount and existence of ~~the~~ airport charges or fees and vehicle license and registration fees on the rental agreement."

SECTION 3. G.S. 66-203(a) reads as rewritten:

"(a) No rental car company may charge, in addition to the rental rate, taxes, airport charges and fees, if any, vehicle license and registration fees, if any, and mileage charge, if any, any fee that must be paid by the renter as a condition of hiring or leasing a vehicle, such as, but not limited to, required fuel charges or any fee for transporting the renter to the location where the rented vehicle will be delivered to that person."

SECTION 4. G.S. 66-204(a) reads as rewritten:

"(a) In addition to the rental rate, taxes, airport charges and fees, if any, vehicle license and registration fees, if any, and mileage charge, if any, a rental car company may charge a renter for an item or service provided in connection with a particular rental transaction if the renter can avoid incurring that charge by choosing not to obtain or utilize the optional item or service. Items and services for which a rental car company may impose an additional charge include, but are not limited to: Optional insurance and accessories requested by the renter unless otherwise prohibited by law; service charges incident to a person's optional return of the vehicle to a location other than the location where the vehicle was hired or leased; optional collision damage waivers; and charges for refueling the vehicle at the conclusion of the rental transaction in the event the rented vehicle is not returned with as much fuel as was in its fuel tank at the beginning of the rental."

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

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Became law upon approval of the Governor at 11:58 a.m. on the 18th day of July, 2007.

Session Law 2007-236 **Senate Bill 1086**

AN ACT TO PROTECT CHILDREN IN THE PUBLIC SCHOOLS FROM EXPOSURE TO TOBACCO BY REQUIRING LOCAL BOARDS OF EDUCATION TO ADOPT WRITTEN POLICIES PROHIBITING THE USE OF TOBACCO PRODUCTS IN SCHOOL BUILDINGS, IN SCHOOL FACILITIES, ON SCHOOL CAMPUSES, OR AT SCHOOL-RELATED OR SCHOOL-SPONSORED EVENTS, AND IN OR ON OTHER SCHOOL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-407 reads as rewritten:

"§ **115C-407. Policy prohibiting tobacco use in school ~~buildings.~~buildings, grounds, and at school-sponsored events.**

(a) Not later than August 1, 2008, ~~Local~~ local boards of education shall ~~adopt~~ adopt, implement, and enforce a written policy ~~providing for enforcement of federal~~

~~requirements under the Pro-Children Act of 1994, 20 U.S.C. § 6083, prohibiting smoking within any school building used to provide routine or regular kindergarten, elementary, or secondary education or library services to children.~~prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy shall further prohibit the use of all tobacco products ~~in enclosed school buildings during regular school hours, and shall include:~~ by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

(b) The policy shall include at least all of the following elements:

(1) Adequate notice to students, parents, the public, and school personnel of the policy.

(2) Posting of signs ~~regarding~~ prohibiting at all times the use of tobacco products by any ~~person.~~person in and on school property.

(3) Requirements that school personnel enforce the policy.

(c) The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property."

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

In the General Assembly read three times and ratified this the 9th day of July, 2007.

Became law upon approval of the Governor at 11:48 a.m. on the 18th day of July, 2007.

Session Law 2007-237 **House Bill 1143**

AN ACT RELATING TO THE DEFINITION OF SUBDIVISION IN STANLY COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-335, as it applies to Stanly County pursuant to Chapter 930 of the 1987 Session Laws, as amended by S.L. 1991-504, S.L. 1993-574, S.L. 1998-37, and S.L. 1998-217, reads as rewritten:

"§ **153A-335.** '**Subdivision**' **defined.**

For purposes of this Part, 'subdivision' means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or change in existing streets. The following

shall not be included within this definition nor be subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown by the regulations prescribed by this act;

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for widening or opening streets;

~~(4) The conveyance of a tract or parcel of land with a minimum of 20,000 square feet exclusive of the State right-of-way for a road with at least 100 feet frontage upon a State-maintained road;~~

(5) The division of land pursuant to an order of the General Court of Justice;

(6) The conveyance of a lot or tract for the purpose of dividing land among tenants in common, all of whom inherited, by intestacy or by will, the land from a common ancestor; and

(7) The division of a tract in single ownership whose entire area is no greater than two acres into no more than three lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the county, as shown by the subdivision regulations contained in this act."

SECTION 2. This act applies to Stanly County only.

SECTION 3. This act is effective when it becomes law and applies only to subdivisions submitted to the Stanly County Planning Department for approval on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-238 **House Bill 1197**

AN ACT AMENDING THE CHARTER OF THE CITY OF STATESVILLE TO MODIFY THE POWERS AND DUTIES OF THE CIVIL SERVICE BOARD AND AMENDING THE ACT ESTABLISHING THE BUNCOMBE COUNTY SHERIFF'S PERSONNEL ADVISORY BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Article V of the Charter of the City of Statesville, being Chapter 289 of the 1977 Session Laws, as amended by Chapter 799 of the 1981 Session Laws, reads as rewritten:

"ARTICLE V.
"CIVIL SERVICE BOARD.

"Sec. 5.1. Members; Term of Office. The Civil Service Board of the City, hereinafter referred to as the 'Board', shall consist of five members. Terms shall begin on the first day of July and expire on the last day of June.

The present members of the Board shall continue to serve until their present terms expire. That person appointed to fill the first term expiring shall be appointed to a

three-year term. Of those appointed to the next three terms expiring, one shall serve a one-year term, one shall serve a two-year term, and one shall serve a three-year term. That person appointed to fill the last present term expiring shall serve a three-year term. These staggered terms are to ensure that a majority of the terms shall not expire during the same year. After the expiration of the term of these appointments, all appointments shall be for a three-year term.

"Sec. 5.2. Appointment of Members; Vacancies; Reappointments. All members of the Board shall be appointed by the senior Resident Judge of the Superior Court of the Judicial District of which Iredell County is a part. Vacancies on the Board shall be filled by appointment in the same manner, and any member appointed to fill a vacancy shall serve the remainder of the unexpired term. No member of the Board, after having served a full two or three-year term, shall be eligible for reappointment to the next succeeding term.

"Sec. 5.3. Qualifications; Removal From Office. Any person, other than a member of the City Council, an elective officer, a member or employee of the police or fire department, or an employee of the City, who is a qualified voter in the municipal elections in the City, shall be eligible for membership on the Board; provided that at least two members shall be of a political party different from that of the majority of the Board. Each member of the Board shall take an oath (or affirmation) for the faithful discharge of the duties of his office. The members of the Board shall be subject to removal from office by the senior Resident Superior Court Judge for any cause which, in his discretion, makes such removal in the best interests of the public.

"Sec. 5.4. Election of Officers; Duties; Records Open to Public. The Board shall elect from its membership a chairman and a secretary for a term of one year. The chairman shall preside at all meetings of the Board. The secretary shall keep the minutes of the proceedings of the Board and shall be the custodian of all papers and records pertaining to the business of the Board, and shall perform such other duties as the Board may direct. All of the records of the Board shall be open to public inspection, during normal business hours at their place of keeping, except where otherwise prohibited by law.

"Sec. 5.5. Powers and Duties. ~~The Board shall establish and fix requirements of applicants for employment in the police department and the fire department of the City, not contrary to State law. These requirements shall be printed and made available for public inspection and for the use of the employees of and applicants for employment in such departments. The board shall institute an affirmative action program in locating, testing and employing qualified blacks for entry level positions in police and fire departments, maintain accurate records and report regularly to city council on progress made in complying with federal court order.~~The Board shall hear grievances as to promotions, demotions, suspensions, and terminations of members of the fire and police departments.

"Sec. 5.5.1. Equal Opportunity. The Board shall maintain a program to insure that all employment decisions made by any person under this section shall be made without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition.

"Sec. 5.6. Compensation. The members of the Board shall receive as compensation for each meeting the sum of fifteen dollars ($15.00).

"Sec. 5.7. Rooms and Clerical Help. The City shall provide suitable rooms for the Board and shall provide all necessary clerical and stenographic help and all stationery, forms, and other supplies needed by the Board, and shall allow such reasonable use of

the facilities of the City ~~for the holding of examinations, and such other use~~ as may be necessary for the proper conduct of its affairs.

~~"Sec. 5.8. Examination of Applicants. All applicants for sworn positions in the police department and qualified firefighters in the fire department of the City shall be subject to an examination by the Board, which examination shall be competitive and open to all persons, subject to a reasonable limitation as to age, health, moral character and general reputation. The examination shall relate to those matters which will fairly test the relative ability of the person examined to discharge in a proper fashion the duties of the position which he seeks to be appointed to, and shall include tests of physical, mental, and moral qualifications, but no applicant shall be examined concerning his political opinions or affiliations. Due regard shall be given by the Board in its examination of applicants for positions in the police department and fire department to the experience or training of any applicant which may qualify him for the duties which he would be called upon to discharge as a member of either department.~~

~~"Sec. 5.9. Notice of Examinations. Notice of the time and place of every examination shall be given by the Board by advertisement in some newspaper published in the City.~~

~~"Sec. 5.10. Eligibility List; Appointments. The Board shall prepare and keep an eligibility list of persons successfully passing its examinations for the positions of patrolmen and firefighters. Each person shall be graded according to his respective showing upon such examinations, and the Board shall make appointments to vacancies, which occur in the departments, on a basis of the grades made by the various applicants upon the examinations so given. All examinations given by the Board shall be made under the rules and regulations established by the Board.~~

~~All names which remain on the eligibility list for a period of two years shall be stricken therefrom; provided, however, any person who becomes eligible for appointment to either the police department or fire department, and is given proper notification that a vacancy exists, shall have seven days to accept or reject the appointment and if he rejects same, his name shall be removed immediately from the eligibility list.~~

~~"Sec. 5.11. Appointment of Policemen and Firemen; Responsible to Mayor and Council. The Chiefs and members of the Police and Fire Departments shall be appointed by a majority vote of the Board.~~

~~The Chiefs and members of the Police and Fire Departments shall be under the direction and control of, and shall be directly responsible to, the Mayor and City Council or, upon proper delegation, to the City Manager.~~

~~"Sec. 5.12. Promotions. All promotions shall be by competitive examination within the departments and shall be made by the respective chiefs, with the approval of the Board.~~

"Sec. 5.13. ~~Acting~~ Chiefs. ~~Notwithstanding any other section to the contrary, if~~ The City Manager shall hire and may terminate the Chiefs of the fire and police departments. If a vacancy occurs in the position of Chief and a new Chief is not immediately appointed, an acting Chief shall be appointed by the City Manager from within the department. The acting Chief shall have all the powers, duties and responsibilities as does the Chief. The acting Chief may be removed from office at any time by the City Manager, in which case he or she shall be restored to his former position.

"Sec. 5.14. Suspension of Fire and Police Chiefs. ~~The mayor and city council or, upon proper delegation, the city manager shall have the authority to suspend, demote or~~

~~terminate from employment the chief of either the police or fire department, but no such suspension, demotion or termination shall become final until concurred in by the civil service board.~~The City Manager shall be responsible for the hiring, firing, and discipline of the police and fire Chiefs.

"Sec. 5.14.1. Hiring Members of Police and Fire Departments; Promotions. The Chiefs of the police and fire departments shall hire the members of their respective departments. All promotions shall be by competitive examination within the departments and shall be made by the respective Chiefs.

"Sec. 5.15. Suspensions; Demotions; Terminations. The Chief of the police or fire department may suspend, demote, or terminate from employment any member of their respective departments for the infraction of any departmental rules and regulations. The Chief may also suspend a departmental employee during the investigation, hearing, or trial of said employee on any criminal charge, when suspension would be in the best interest of the department; where the suspension is terminated by full reinstatement of the employee, back pay shall be recoverable. Suspensions for an infraction of departmental rules and regulations of more than 15 days at any one time, or one which would make the total number of days suspended exceed 25 during any six-month period; demotions in rank and terminations may be appealed to the Board, upon written request filed with the respective Chief within three days of notification of the disciplinary action taken. The rules and regulations of each department may provide for appeals in the case of all suspensions for infractions of departmental rules and regulations; the Board shall have the power to hear such appeals. Upon notification of an appeal, the Board may make such investigation as it may direct and shall hold a hearing at which the accused shall be given an opportunity to be heard and present evidence in his own behalf. The Board shall have power to subpoena witnesses and compel testimony.

~~The board shall have the authority to suspend, demote in rank, or terminate from employment any employee who has appealed.~~ The board shall have the authority to sustain the disciplinary action imposed by the chief or vacate the same or impose such disciplinary action as it may determine; provided that no such ~~suspension, demotion or termination~~ action shall become final until ~~concurred in~~ it is concurred by the city council.

~~Notwithstanding any provisions to the contrary herein, a~~ Any probationary employee of either department may be summarily discharged by the Chief of that department with no right to appeal to the Board.

Decisions regarding disciplinary actions made by the Chiefs, where no right to appeal exists, and all decisions of the Board under this section, shall be final and not subject to judicial review.

This section shall not apply to terminations due to a reduction in personnel.

"Sec. 5.16. Political Activity. No member or employee of the police department or the fire department shall contribute to or take part in any manner, directly or indirectly, in any election or function involving the election of a candidate for municipal office, other than casting his secret ballot.

No employee of the police department or the fire department shall seek a political office while employed as a member of either department, and shall not be granted a leave of absence prior to offering for election. Such employee shall automatically be dropped from the payroll of the City on the date the filing fee is paid to the Election Board."

SECTION 2.(a) Effective with the appointments made under Section 2(b) of this act, Section 1 of Chapter 297 of the 1973 Session Laws reads as rewritten:

"**Section 1.** Creation. There is hereby created a Personnel Advisory Board for the Sheriff's Department of Buncombe County which shall be composed of ~~three~~ five members to be appointed by the senior regular resident Superior Court judge of the 28th Judicial District."

SECTION 2.(b) Effective with the appointments made under this subsection, Section 2 of Chapter 297 of the 1973 Session Laws reads as rewritten:

"**Sec. 2.** Terms, and Qualifications and Removal. The senior regular resident judge of Superior Court shall, ~~on or before July 1, 1973, appoint the three members~~ on or before September 1, 2007, appoint the five members of his selection who shall constitute the Personnel Advisory Board. The terms of office of the three persons serving on the date of the new appointments expire on that date. The initial term of office of ~~one member~~ two members of the Board shall be for one year; the initial term of office of ~~one member~~ two members shall be for two years; and the initial term of office of one member shall be for three years. The resident judge shall determine and announce the terms of the respective members of the Board.

At the expiration of the term of each member of said Board the resident judge shall appoint a successor for a term of three years. Any vacancy in the Personnel Advisory Board shall be filled in the manner herein provided for the appointment of members, and the person so appointed shall serve for the unexpired term of the member whose place he fills. Members of the Board shall hold office until their successors are appointed and qualified.

All persons appointed to the Personnel Advisory Board shall be interested in promoting a merit system of personnel administration and none shall ~~practice or have practiced law in the criminal courts of Buncombe County or hold or have held political office or an office in a political party during the previous three years.~~ be a current elected officeholder.

The members of the Board shall serve without pay or remuneration but shall be reimbursed for travel expenses incurred in the course of their duties.

The Board shall annually elect one of its members as chairman.

A member of the Board may be removed by the senior resident judge only for cause, after being given a copy of the charges against him and an opportunity to be heard publicly on such charges."

SECTION 2.(c) Section 3 of Chapter 297 of the 1973 Session Laws reads as rewritten:

"**Sec. 3.** Duties of Personnel Advisory Board. The duties of the Personnel Board shall be as follows:

(1) ~~to~~ To represent the public interest in the improvement of personnel administration;

(2) ~~to~~ To advise the Sheriff of Buncombe County concerning personnel administration, including minimum standards of employment established by the Criminal Justice and Training and Standards Council, and the methods used to publicize vacancies;

(3) ~~to~~ To make any investigations which it may consider desirable concerning the administration of personnel in the Department;

(4) ~~to~~ To advise the Sheriff on such personnel rules as he shall establish; and

(5) ~~to~~ To hear appeals, receive evidence, determine facts and make recommendations to the Sheriff in case of employee appeals of suspension, demotion ~~and dismissal~~ and/or dismissal, and to determine and establish a rotating board for hiring and promotions."

SECTION 2.(d) Sections 5 and 6 of Chapter 297 of the 1973 Session Laws read as rewritten:

"**Sec. 5.** Political Activity Restricted. Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee of the Department ~~shall~~ shall, as a duty of his office or employment, or as a condition for employment, promotion, or tenure of office: (1) engage in any political activity while on duty, (2) be required ~~as a duty of his office or employment, or as a condition for employment, promotion, or tenure of office, to contribute~~ to contribute funds for political or partisan purposes, (3) solicit, or act as custodian of, funds for political or partisan purposes, (4) coerce or compel contributions for political or partisan purposes by any other employee of the County, or (5) use any supplies or equipment of the County for political purposes. Any violation of this section shall be deemed improper conduct and shall subject such employee to dismissal or other disciplinary action by the Sheriff.

Sec. 6. Exemptions. All employees in the Sheriff's Department shall be subject to this act except the Sheriff, the Chief Deputy Sheriff, ~~the Assistant Chief Deputy Sheriff and the Administrative Deputy Sheriff.~~ and the majors and captains of the Buncombe County Sheriff's Department."

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

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-239 **House Bill 489**

AN ACT TO REDUCE THE TERMS OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE FROM FIVE YEARS TO FOUR YEARS AND TO AUTHORIZE THE CITY OF ASHEVILLE AND THE ASHEVILLE CITY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE HOUSING FOR TEACHERS, POLICE OFFICERS, AND FIREFIGHTERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 157-5(d) reads as rewritten:

"(d) The mayor shall designate overlapping terms of not less than one nor more than five years for the commissioners first appointed. Thereafter, the term of office shall be ~~five~~ four years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. A majority of the commissioners shall constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services

but he or she shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his or her duties."

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

SECTION 1.(c) This section applies to terms of office commencing on or after the date it becomes law.

SECTION 2.(a) Notwithstanding G.S. 66-58, G.S. 115C-518, and Article 12 of Chapter 160A of the General Statutes, or any other provision of law, and subject to the restrictions set out in this section, the City of Asheville and the Asheville City Board of Education may enter into a partnership, joint venture, land trust, or similar arrangement with each other to construct and provide affordable housing on property now owned by the City of Asheville or the Asheville City Board of Education.

SECTION 2.(b) Notwithstanding G.S. 66-58, G.S. 115C-518, and Article 12 of Chapter 160A of the General Statutes, or any other provision of law, this section authorizes the City of Asheville and the Asheville City Board of Education to convey property they own to such partnership, joint venture, land trust, or similar entity for the purposes of constructing, providing, and maintaining affordable housing for Asheville City Schools teachers and City of Asheville police officers and firefighters, and, if units remain available, to Asheville City Schools professional staff. The City of Asheville and the Asheville City Board of Education shall not transfer to the partnership, joint venture, land trust, or other entity created pursuant to this act, property acquired on or after the effective date of this act through the exercise of eminent domain.

SECTION 2.(c) Notwithstanding G.S. 66-58, G.S. 115C-518, and Article 12 of Chapter 160A of the General Statutes, or any other provision of law, the City of Asheville, the Asheville City Board of Education, or the partnership, joint venture, land trust, or similar entity referenced above may contract with any person, partnership, corporation, or other business entity to finance, construct, or maintain such affordable housing.

SECTION 2.(d) Notwithstanding G.S. 66-58, G.S. 115C-518, and Article 12 of Chapter 160A of the General Statutes, or any other provision of law, the City of Asheville, the Asheville City Board of Education, or the partnership, joint venture, land trust, or similar entity referenced above may rent or sell such housing units for residential use; provided that the rental or sale of such units is exclusively restricted to Asheville City Schools teachers and to City of Asheville police officers and firefighters, and, if units remain not leased or sold, to Asheville City Schools professional staff; provided further that, while the housing units may be rented or sold, the land may only be leased and not sold. The City, the Board, and the partnership, joint venture, land trust, or similar entity referenced above shall have the authority to establish reasonable rents or sales prices for any such housing units and may in their discretion charge below-market rates and offer below-market financing so as to provide housing for families earning less than one hundred percent (100%) of the area median income for families of the same size for which they pay no more than thirty percent (30%) of their gross household income. The City, the Board, and the partnership, joint venture, land trust, or similar entity referenced above may also place reasonable restrictions and buyback provisions on the resale of the housing units to maintain the purposes set forth in this section.

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

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-240 **House Bill 941**

AN ACT TO REPEAL A LOCAL ACT ON DISPOSITION OF PROPERTY BY BRUNSWICK COUNTY SO THE GENERAL LAW WILL APPLY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 302 of the 1943 Session Laws is repealed.

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-241 **House Bill 1097**

AN ACT TO AUTHORIZE VARIOUS MUNICIPALITIES TO PROVIDE DEVELOPMENT INCENTIVES IN EXCHANGE FOR REDUCTIONS IN ENERGY CONSUMPTION.

The General Assembly of North Carolina enacts:

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

SECTION 2. This act applies only to the Cities of Asheville, Charlotte, and Wilmington, and to the Towns of Carrboro and Chapel Hill.

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-242 **House Bill 1182**

AN ACT AMENDING THE CHARTER OF THE VILLAGE OF SUGAR MOUNTAIN TO EXTEND THE MAYOR'S TERM OF OFFICE FROM TWO YEARS TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.4 of the Charter of the Village of Sugar Mountain, being Chapter 395 of the 1985 Session Laws, as amended by S.L. 2000-63, reads as rewritten:

"Sec. 3.4. Election of Mayor; term of office. Until a Mayor is elected in accordance with this section, Marjorie Unrath shall serve as Mayor. In ~~1985~~ 2007 and ~~biennially~~ quadrennially thereafter, a Mayor shall be elected for a ~~two-year~~ four-year term."

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-243 **Senate Bill 60**

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO AS SOON AS PRACTICABLE DESIGNATE A TEMPORARY LOCATION FOR REGISTRATION DOCUMENT AND PLATE ACQUISITION WHEN CLOSING THE ONLY CONTRACT LICENSE PLATE AGENCY IN A COUNTY.

The General Assembly of North Carolina enacts:

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

"(h2) Upon the closing of the only contract license plate agency in a county, the Division shall as soon as practicable designate a temporary location for the issuance of all registration plates, registration certificates, and certificates of title issued by the Division for that county. The designation shall be posted at the former agency location for not less than 30 days and shall include the street address and telephone number of the temporary location. A former contract agent shall allow the posting of this required notice at the former location for a period of not less than 30 days. A failure to comply with the posting requirements of this section by a former contract agent shall be a Class 3 misdemeanor."

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

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law upon approval of the Governor at 3:04 a.m. on the 20th day of July, 2007.

Session Law 2007-244 **House Bill 257**

AN ACT TO AMEND THE SALES TAX DEFINITIONS TO COMPLY WITH THE STREAMLINED SALES TAX AGREEMENT AND TO MAKE OTHER SALES TAX CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 reads as rewritten:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

(1) Ancillary service. – A service associated with or incidental to the provision of a telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections.

(1b) Bundled transaction. – A retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. Products are not sold for one nonitemized price if an invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following:

a. A product and any packaging item that accompanies the product and is exempt under G.S. 105-164.13(23).

b. A sale of two or more products whose combined price varies, or is negotiable, depending on the products the purchaser selects.

c. A sale of a product accompanied by a transfer of another product with no additional consideration.

d. A product and the delivery or installation of the product.

e. A product and any service necessary to complete the sale.

~~(1a)~~(1d) Business. – Includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, profit, benefit or advantage, either direct or indirect. The term "business" shall not be construed in this Article to include occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business.

~~(1b)~~(1f) Cable service. – The one-way transmission to subscribers of video programming or other programming service and any subscriber interaction required to select or use the service.

…

(12) Gross sales. – The sum total of the sales price of all retail sales of tangible personal property ~~as defined herein, whether for cash or credit without allowance for cash discount and without any deduction on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or any other expenses whatsoever and without any deductions of any kind or character except as provided in this Article.~~ and services.

…

(37) Sales price. – The total amount or consideration for which tangible personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

a. The term includes all of the following:

1. The retailer's cost of the property sold.
2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
3. Charges by the retailer for any services necessary to complete the sale.
4. Delivery charges.
5. Installation charges.

6. ~~The value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise.~~
7. Credit for trade-in.
8. Discounts that are reimbursable by a third party and can be determined at the time of sale through any of the following:
   I. Presentation by the consumer of a coupon or other documentation.
   II. Identification of the consumer as a member of a group eligible for a discount.
   III. The invoice the retailer gives the consumer.

b. The term does not include any of the following:
1. ~~Discounts, including cash, term, or coupons, that are not reimbursed~~ Discounts that are not reimbursable by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.
3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer.

…

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended ~~in November 2005.~~as of June 23, 2007."

SECTION 2. G.S. 105-164.4D, as enacted by Section 5 of S.L. 2006-151, reads as rewritten:

"§ **105-164.4D. Bundled ~~services.~~transactions.**

~~When a taxable service is bundled with a service that is not taxable, the tax applies to the gross receipts from the taxable service in the bundle as follows:~~

~~(1) If the service provider offers all the services in the bundle on an unbundled basis, tax is due on the unbundled price of the taxable service, less the discount resulting from the bundling. The discount for a service as the result of bundling is the proportionate price decrease of the service, determined on the basis of the total unbundled price of all the services in the bundle compared to the bundled price of the services.~~

~~(2) If the service provider does not offer one or more of the services in the bundle on an unbundled basis, tax is due on the taxable service based on a reasonable allocation of revenue to that service. If the service provider maintains an account for revenue from a taxable service, the service provider's allocation of revenue to that service for the purpose of determining the tax due on the service must reflect its accounting allocation of revenue to that service.~~

(a) Tax Application. – Tax applies to the sales price of a bundled transaction unless one of the following applies:

(1) Fifty percent (50%) test. – All of the products in the bundle are tangible personal property, the bundle includes one or more of the exempt products listed in this subdivision, and the price of the taxable products in the bundle does not exceed fifty percent (50%) of the price of the bundle:

a. Food exempt under G.S. 105-164.13B.

b. A drug exempt under G.S. 105-164.13(13).

c. Medical devices, equipment, or supplies exempt under G.S. 105-164.13(12).

(2) Allocation. – The bundle includes a service, and the retailer determines an allocated price for each product in the bundle based on a reasonable allocation of revenue that is supported by the retailer's business records kept in the ordinary course of business. In this circumstance, tax applies to the allocated price of each taxable product in the bundle.

(3) Ten percent (10%) test. – The price of the taxable products in the bundle does not exceed ten percent (10%) of the price of the bundle, and no other subdivision in this subsection applies.

(b) Determining Threshold. – A retailer of a bundled transaction subject to this section may use either the retailer's cost price or the retailer's sales price to determine if the transaction meets the fifty percent (50%) test or the ten percent (10%) test set out in subdivisions (a)(1) and (a)(3) of this section. A retailer may not use a combination of cost price and sales price to make this determination. If a bundled transaction subject to subdivision (a)(3) of this section includes a service contract, the retailer must use the full term of the contract in determining whether the transaction meets the threshold set in the subdivision."

SECTION 3. G.S. 105-164.12B reads as rewritten:

"§ **105-164.12B. Tangible personal property ~~bundled~~ sold below cost with conditional service contract.**

(a) ~~Bundled Transaction~~ Conditional Service Contract Defined. – A ~~bundled transaction is a transaction~~ conditional service contract is a contract in which all of the following conditions are met:

(1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase services on an ongoing basis for a minimum period of at least six months.

(2) The agreement requires the consumer to pay a cancellation fee to the ~~service provider~~ seller if the consumer cancels the contract for services within the minimum period.

(3) For the item transferred, the ~~seller:~~

~~a. Does not charge the consumer; or~~

~~b.~~ ~~Charges~~ seller charges the consumer a price that, after any ~~discount or rebate~~ price reduction the seller gives the consumer, is below the purchase price the seller paid for the item. The seller's purchase price is presumed to be no greater than the price the seller paid, as shown on the seller's purchase invoice, for the same item within 12 months before the seller entered into the conditional service contract.

(b) ~~Bundled Transaction Is a Sale; Sales Price.~~ Tax. – If a seller transfers an item of tangible personal property as part of a ~~bundled transaction,~~ conditional service

contract, a sale has ~~occurred, and the~~ occurred. The sales price of the item is presumed to be the retail price at which the item would sell ~~if no agreement for services were entered into. Part of this price may be paid by the consumer at the time of the transfer; the remainder of the price is considered paid as part of the price to be paid for the services contracted for.~~ in the absence of the conditional service contract. Sales tax is due ~~on any part of the price paid by the consumer~~ at the time of the ~~transfer.~~transfer on the following:

(1) Any part of the presumed sales price the consumer pays at that time, if the service in the contract is taxable at the combined general rate.

(2) The presumed sales price, if the service in the contract is not taxable at the combined general rate.

~~(c) No Additional Sales Tax if Services Taxed. – If the services for which the consumer was required to contract are subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then no additional sales tax is due on the transfer. However, if the consumer cancels the contract for services before the expiration of the minimum period, sales tax applies to the cancellation fee paid by the consumer.~~

~~(d) Additional Sales Tax if Services Not Taxed. – If the services for which the consumer was required to contract are not subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then sales tax is due at the time of the transfer on the remainder of the sales price not paid at that time.~~

~~(e) Services Taxes Defined. – For the purpose of this section, the term "services taxes" means any combination of State franchise tax on gross receipts, State sales tax, or local sales tax levied on the sale of or gross receipts from the services.~~

~~(f) Determination of Purchase Price. – For the purpose of this section, the purchase price a seller paid for an item is presumed to be no greater than the price the seller paid for the same model within 12 months before the bundled transaction, as shown on the seller's invoices.~~"

SECTION 4. G.S. 105-164.13(9) reads as rewritten:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

Agricultural Group.

…

(9) ~~Sales of boats,~~ Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies sold to ~~persons~~ any of the following:

a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use ~~by them principally~~ in commercial fishing ~~operations within the meaning of G.S. 113-168, except when the property is for use by persons principally to take fish for recreation or personal use or consumption.~~ operations.

b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.

c. The operator of a for-hire boat, as defined in G.S. 113-174, for principal use in the commercial use of the boat. ~~As used in this subdivision, "fish" is defined as in G.S. 113-129(7).~~"

SECTION 5. G.S. 105-164.42L reads as rewritten:

"§ **105-164.42L. Databases on taxing jurisdictions.**

The Secretary may develop databases that provide information on the boundaries of taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A ~~seller that~~ person who relies on the information provided in these databases is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in those databases."

SECTION 6. G.S. 105-467(a) reads as rewritten:

"§ **105-467. Scope of sales tax.**

(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.

(1) The sales price of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b).

(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).

(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).

(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d).

(7) The gross receipts derived from providing satellite digital audio radio service subject to the general rate of tax under G.S. 105-164.4(a)(6a)."

SECTION 7. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by inserting a new subdivision between subdivisions (5) and (6) to read as follows:

"(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this section, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D."

SECTION 8. G.S. 105-519 reads as rewritten:

"§ **105-519. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to ~~G.S. 105-164.13B.~~G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a)."

SECTION 9. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 3:11 a.m. on the 20th day of July, 2007.

Session Law 2007-245 **House Bill 676**

AN ACT TO INCREASE THE MAXIMUM ANNUAL PENSION BENEFIT PAYABLE THROUGH THE REGISTER OF DEEDS' SUPPLEMENTAL PENSION FUND AND TO MAKE OTHER ADJUSTMENTS TO THE FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-50.2 reads as rewritten:

"§ **161-50.2. Assets.**

(a) On and after October 1, 1987, each County Commission shall remit monthly to the Department of State Treasurer an amount equal to ~~four and one-half percent (4.5%)~~ one and one-half percent (1.5%) of the monthly receipts collected pursuant to Article 1 of Chapter 161 of the General Statutes, to be deposited to the credit of the Registers of Deeds' Supplemental Pension Fund, hereinafter referred to as the Fund, to be used in making monthly pension payments to eligible retired registers of deeds under the provisions of this Article and to pay the cost of administering the provisions of this Article.

(b) The State Treasurer shall be the custodian of the Registers of Deeds' Supplemental Pension Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3."

SECTION 2. G.S. 161-50.4(b) reads as rewritten:

"(b) Each eligible retired register of deeds as defined in subsection (a), (a1), or (a2) of this section relating to service and retirement status ~~on January 1 of each calendar year~~ shall be entitled to receive a monthly pension under this Article beginning with the month of ~~January of the same calendar year.~~ retirement."

SECTION 3. G.S. 161-50.5(a) reads as rewritten:

"(a) An eligible retired register of deeds shall be entitled to receive an annual pension benefit, payable in equal monthly installments, equal to one share for each full year of eligible service as register of deeds multiplied by his total number of years of eligible service. The amount of each share shall be determined by dividing the total number of years of eligible service for all eligible retired registers of deeds on December 31 of each calendar year into the amount to be disbursed as monthly pension payments in accordance with the provisions of G.S. 161-50.3. In no event, however, shall a monthly pension under this Article exceed ~~an amount, which when added to a retirement allowance at retirement from the Local Governmental Employees' Retirement System or an equivalent locally sponsored plan, and a determined life~~

~~annuity value of benefits payable at the time of retirement from contributions other than his own and earnings thereon from the Supplemental Retirement Income Plan pursuant to Chapter 135 of the General Statutes as determined by the Department of State Treasurer and the Plan's Board of Trustees,is greater than~~ seventy-five percent (75%) of a register of deed's equivalent annual salary immediately preceding retirement computed on the latest monthly ~~base~~ rate, including any and all supplements, to a maximum amount of ~~one thousand two hundred dollars ($1,200).~~ one thousand five hundred dollars ($1,500)."

SECTION 4. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 3:15 a.m. on the 20th day of July, 2007.

Session Law 2007-246 **House Bill 833**

AN ACT TO RENAME THE FIREMEN'S RELIEF FUND THE FIREFIGHTERS' RELIEF FUND IN RECOGNITION OF THE NUMEROUS FEMALE FIREFIGHTERS WHO SERVE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-85-1 reads as rewritten:

"§ **58-85-1. Application of fund.**

The money paid into the hands of the treasurer of the North Carolina State Firemen's Association shall be known and remain as the "~~Firemen's~~ Firefighters' Relief Fund" of North Carolina, and shall be used as a fund for the relief of ~~firemen~~ firefighters and county fire marshals, who are members of this Association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as ~~firemen~~ firefighters or county fire marshals, and for the relief of ~~widows,~~ surviving spouses, children, and if there be no ~~widow~~ surviving spouse or children, then dependent mothers of the ~~firemen~~ firefighters and county fire marshals killed or dying from disease so contracted in the discharge of duty; to be paid in the manner and in the sums to the individuals of the classes herein named and described as may be provided for and determined upon in accordance with the constitution and bylaws of the Association, and any provisions and determinations made under the constitution and bylaws shall be final and conclusive as to the persons entitled to benefits and as to the amount of benefit to be received, and no action at law shall be maintained against the Association to enforce any claim or recover any benefit under this Article or under the constitution and bylaws of the Association; but if any officer or committee of the Association omit or refuse to perform any duty imposed upon ~~him~~ the officer or them, nothing herein contained shall be construed to prevent any proceedings against that officer or committee to compel ~~him~~ the officer or them to perform that duty. No ~~fireman~~ firefighter or county fire marshal shall be entitled to receive any benefits under this section until the ~~firemen's~~ firefighters' relief fund of his city or town has been exhausted. Notwithstanding the above provisions, the Executive Board of the North Carolina State Firemen's Association is hereby authorized to grant educational scholarships to members and the children of members, to subsidize premium payments of members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina State Firemen's Association, and to provide accidental death and dismemberment insurance for

members of those fire departments not eligible for benefits pursuant to standards of certification adopted by the State Firemen's Association for the use of local relief funds."

SECTION 2. G.S. 58-80-60 reads as rewritten:

"§ **58-80-60. Sums from contingent fund of State made available for administration of Article.**

In order to assist in carrying out the purposes of the Article the Governor may, from time to time, make provisions for assistance to the North Carolina State Firemen's Association in a sum not to exceed two thousand five hundred dollars ($2,500), in any one year, out of the contingent fund appropriated in the General Appropriation Act. One half of the amount so provided shall, in each instance, go to the State ~~Firemen's~~ Firefighters' Relief Fund, and one half to the expenses of the said Association incurred in carrying out the provisions of this Article."

SECTION 3. G.S. 58-84-30 reads as rewritten:

"§ **58-84-30. Trustees appointed; organization.**

For each county, town or city complying with and deriving benefits from the provisions of this Article, there shall be appointed a local board of trustees, known as the trustees of the ~~firemen's relief fund,~~ Firefighters' Relief Fund, to be composed of five members, two of whom shall be elected by the members of the local fire department or departments who are qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and board of aldermen or other local governing body, and one of whom shall be named by the Commissioner of Insurance. Their selection and term of office shall be as follows:

(1) The members of the fire department shall hold an election each January to elect their representatives to above board. In January 1950, the ~~firemen~~ firefighters shall elect one member to serve for two years and one member to serve for one year, then each year in January thereafter, they shall elect only one member and his term of office shall be for two years.

(2) The mayor and board of aldermen or other local governing body shall appoint, in January 1950, two representatives to above board, one to hold office for two years and one to hold office for one year, and each year in January thereafter they shall appoint only one representative and his term of office shall be for two years.

(3) The Commissioner of Insurance shall appoint one representative to serve as trustee and he shall serve at the pleasure of the Commissioner.

All of the above trustees shall hold office for their elected or appointed time, or until their successors are elected or appointed, and shall serve without pay for their services. They shall immediately after election and appointment organize by electing from their members a chairman and a secretary and treasurer, which two last positions may be held by the same person. The treasurer of said board of trustees shall give a good and sufficient surety bond in a sum equal to the amount of moneys in his hand, to be approved by the Commissioner of Insurance. The cost of this bond may be deducted by the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10 before distribution is made to local relief funds. If the chief or chiefs of the local fire departments are not named on the board of trustees as above provided, then they shall serve as ex officio members without privilege of voting on matters before the board."

SECTION 4. G.S. 58-84-35(5) reads as rewritten:

"§ **58-84-35. Disbursement of funds by trustees.**

The board of trustees shall have entire control of the funds derived from the provisions of this Article, and shall disburse the funds only for the following purposes:

…

(5) To provide for benefits of supplemental retirement, workers compensation, and other insurance and pension protection for ~~firemen~~ firefighters otherwise qualifying for benefits from the ~~Firemen's~~ Firefighters' Relief Fund as set forth in Article 85 of this Chapter.

…."

SECTION 5. G.S. 58-84-40(d) reads as rewritten:

"(d) In the event that any local relief fund provided for in this Article becomes impaired, then the ~~Firemen's~~ Firefighters' Relief Fund may in the discretion of its board of trustees assist the local unit administering the fund in providing for relief to injured ~~firemen~~ firefighters and their dependents or survivors; provided, however, that any funds so provided to such impaired units shall be repaid in full at the statutory rate of interest from future local unit receipts if the impairment resulted from violations of this Article."

SECTION 6. G.S. 58-84-46(3) reads as rewritten:

"§ **58-84-46. Certification to Commissioner.**

On or before October 31 of each year the clerk or finance officer of each city or county that has a local board of trustees under G.S. 58-84-30 shall file a certificate of eligibility with the Commissioner. The certificate shall contain information prescribed by administrative rule adopted by the Commissioner. If the certificate is not filed with the Commissioner on or before January 31 in the ensuing year:

…

(3) That amount shall constitute a part of the ~~Firemen's~~ Firefighters' Relief Fund."

SECTION 7. G.S. 58-84-50 reads as rewritten:

"§ **58-84-50. Fire departments to be members of State Firemen's Association.**

For the purpose of supervision and as a guaranty that provisions of this Article shall be honestly administered in a businesslike manner, it is provided that every department enjoying the benefits of this law shall be a member of the North Carolina State Firemen's Association and comply with its constitution and bylaws. If the fire department of any city, town or village shall fail to comply with the constitution and bylaws of said Association, said city, town or village shall forfeit its right to the next annual payment due from the funds mentioned in this Article, and the Commissioner of Insurance shall pay over said amount to the treasurer of the North Carolina State Firemen's Association and same shall constitute a part of the ~~firemen's relief fund.~~ Firefighters' Relief Fund."

SECTION 8. G.S. 58-84-55 reads as rewritten:

"§ **58-84-55. No discrimination on account of race.**

The local boards of trustees of the ~~Firemen's~~ Firefighters' Relief Fund shall make no discrimination based upon race in the payment of benefits."

SECTION 8.1. Effective October 1, 2007, G.S. 58-84-60, as enacted by S.L. 2007-54, reads as rewritten:

"§ **58-84-60. Immunity.**

A person serving on a local board of trustees of the ~~Firemen's~~ Firefighters' Relief Fund shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

(1) Was not acting within the scope of that person's official duties;
(2) Was not acting in good faith;
(3) Committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;
(4) Derived an improper personal financial benefit, either directly or indirectly, from the transaction; or
(5) Incurred the liability from the operation of a motor vehicle."

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

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 3:16 a.m. on the 20th day of July, 2007.

Session Law 2007-247 **House Bill 1338**

AN ACT AUTHORIZING THE ELECTRICAL CONTRACTORS BOARD TO RAISE THE PROJECT VALUE LIMITS FOR LICENSE CLASSIFICATIONS UNDER THE LAWS REGULATING ELECTRICAL CONTRACTORS AND TO RAISE THE PROJECT VALUE LIMITS FOR LICENSE CLASSIFICATIONS UNDER THE LAWS REGULATING GENERAL CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-43.3 reads as rewritten:

"§ **87-43.3. Classification of licenses.**

An electrical contracting license shall be issued in one of the following classifications: Limited, under which a licensee shall be permitted to engage in a single electrical contracting project of a ~~value~~ value, as established by the Board, not in excess of ~~twenty-five thousand dollars ($25,000)~~one hundred thousand dollars ($100,000) and on which the equipment or installation in the contract is rated at not more than 600 volts; Intermediate, under which a licensee shall be permitted to engage in a single electrical contracting project of a ~~value~~ value, as established by the Board, not in excess of ~~seventy-five thousand dollars ($75,000);~~ two hundred thousand dollars ($200,000); Unlimited, under which a licensee shall be permitted to engage in any electrical contracting project regardless of value; and such other special Restricted classifications as the Board may establish from time to time to provide, (i) for the licensing of persons, partnerships, firms or corporations wishing to engage in special restricted electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature, and (ii) for the licensing of persons, partnerships, firms or corporations wishing to engage in electrical contracting work as an incidental part of their primary business, which is a lawful business other than electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature directly in connection with said primary business. The Board may establish appropriate standards for each classification, such standards not to be inconsistent with the provisions of G.S. 87-42. The Board may, by rule, modify the project value limitations up to the maximum amounts set forth in this section for limited and intermediate licenses no more than once every three years based upon an increase or decrease in the project cost index for electrical projects in this State."

SECTION 2. G.S. 87-43.2(a) reads as rewritten:

"(a) A person, partnership, firm, or corporation shall be eligible to be licensed as an electrical contractor and to have such license renewed, subject to the provisions of this Article, provided:

(1) At least one listed qualified individual shall be regularly employed by the applicant at each separate place of business to have the specific duty and authority to supervise and direct electrical contracting done by or in the name of the licensee;

(2) An application is filed with the Board which contains a statement of ownership, states the names and official positions of all employees who are listed qualified individuals and provides such other information as the Board may reasonably require;

(3) The applicant, through an authorized officer or owner, shall agree in writing to report to the Board within five days any additions to or loss of the employment of listed qualified individuals; and

(4) The applicant furnishes, upon the initial application for a license, a bonding ability statement completed by a bonding company licensed to do business in North Carolina, verifying the applicant's ability to furnish performance bonds for electrical contracting projects having a value in excess of ~~twenty-five thousand dollars ($25,000)~~the project value limit for a limited license established pursuant to G.S. 87-43.3 for the intermediate license classification and in excess of ~~seventy-five thousand dollars ($75,000)~~the project value limit for an intermediate license established pursuant to G.S. 87-43.3 for the unlimited license classification. In lieu of furnishing the bonding ability statement, the applicant may submit for evaluation and specific approval of the Board other information certifying the adequacy of the applicant's financial ability to engage in projects of the license classification applied for. The bonding ability statement or other financial information must be submitted in the same name as the license to be issued. If the firm for which a license application is filed is owned by a sole proprietor, the bonding ability statement or other financial information may be furnished in either the firm name or the name of the proprietor. However, if the application is submitted in the name of a sole proprietor, the applicant shall submit information verifying that the person in whose name the application is made is in fact the sole proprietor of the firm.

(5) Repealed by Session Laws 1989, c. 709, s. 5."

SECTION 3. G.S. 87-10(a) reads as rewritten:

"(a) Anyone seeking to be licensed as a general contractor in this State shall file an application for an examination on a form provided by the Board, at least 30 days before any regular or special meeting of the Board. The Board may require the applicant to pay the Board or a provider contracted by the Board an examination fee not to exceed one hundred dollars ($100.00) and pay to the Board a license fee not to exceed one hundred twenty-five dollars ($125.00) if the application is for an unlimited license, one hundred dollars ($100.00) if the application is for an intermediate license, or seventy-five dollars ($75.00) if the application is for a limited license. The fees accompanying any application or examination shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act

as general contractor for any single project with a value of up to ~~seven hundred thousand dollars ($700,000);~~ one million dollars ($1,000,000); the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to ~~three hundred fifty thousand dollars ($350,000);~~ five hundred thousand dollars ($500,000); and the license certificate shall be classified in accordance with this section. Before being entitled to an examination an applicant must show to the satisfaction of the Board from the application and proofs furnished that the applicant is possessed of a good character and is otherwise qualified as to competency, ability, integrity, and financial responsibility, and that the applicant has not committed or done any act, which, if committed or done by any licensed contractor would be grounds under the provisions hereinafter set forth for the suspension or revocation of contractor's license, or that the applicant has not committed or done any act involving dishonesty, fraud, or deceit, or that the applicant has never been refused a license as a general contractor nor had such license revoked, either in this State or in another state, for reasons that should preclude the granting of the license applied for, and that the applicant has never been convicted of a felony involving moral turpitude, relating to building or contracting, or involving embezzlement or misappropriation of funds or property entrusted to the applicant: Provided, no applicant shall be refused the right to an examination, except in accordance with the provisions of Chapter 150B of the General Statutes."

SECTION 4. Effective on the date this act becomes effective and until changed by permanent rule adopted by the State Board of Examiners of Electrical Contractors, for purposes of Sections 1 and 2 of this act, the project value limitation for the Limited classification shall be forty thousand dollars ($40,000) and the project value limitation for the Intermediate classification shall be one hundred ten thousand dollars ($110,000).

SECTION 5. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 3:16 a.m. on the 20th day of July, 2007.

Session Law 2007-248 **House Bill 1369**

AN ACT PERTAINING TO THE PRESERVATION OF PRESCRIPTION DRUG ORDERS BY PHARMACIES AND TO PERMIT MEDICAL CONSENT AND AUTHORIZATION FORMS TO BE KEPT IN THE SAME ELECTRONIC FORMAT AS OTHER MEDICAL RECORDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-85.26 reads as rewritten:

"§ **90-85.26. Prescription orders preserved.**

(a) Every pharmacist-manager of a pharmacy shall maintain for at least three years the original of every prescription order and refill compounded or dispensed at the pharmacy except for prescription orders recorded in a patient's medical record. An automated data processing system may be used for the storage and retrieval of refill information for prescriptions pursuant to the regulations of the Board. A pharmacist-manager may comply with this section by capturing and maintaining an electronic image of a prescription order or refill. An electronic image of a prescription order or refill shall constitute the original prescription order, and a hard copy of the

prescription order or refill is not required to be maintained. If a pharmacist-manager elects to maintain prescription orders by capturing electronic images of prescription orders or refills, the pharmacy's computer system must be capable of maintaining, printing, and providing in an electronic or paper format, upon a request by the Board, all of the information required by this Chapter or rules adopted pursuant to this Chapter within 48 hours of such a request.

(b) Every pharmacy permittee's designated agent shall maintain documentation of alleged medication errors and incidents described in G.S. 90-85.47(e)(1) for which the pharmacy permittee has knowledge."

SECTION 2. G.S. 90-106(h) reads as rewritten:

"(h) A pharmacist dispensing a controlled substance under this Article shall enter the date of dispensing on the prescription order ~~and shall write his own signature on the face of the prescription~~ pursuant to which such controlled substance was dispensed."

SECTION 3. G.S. 90-412(a) reads as rewritten:

"(a) Notwithstanding any other provision of law, any health care provider or facility licensed, certified, or registered under the laws of this State or any unit of State or local government may create and maintain medical records in an electronic format. The health care provider, facility, or governmental unit shall not be required to maintain a separate paper copy of the electronic medical ~~record; however, when a consent to treatment or authorization to disclose medical record information is contained in a paper writing, the writing shall be preserved in a durable medium, and its existence and location shall be noted in the electronic~~ record. A health care provider, facility, or governmental unit shall maintain electronic medical records in a legible and retrievable form, including adequate data backup."

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

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 3:20 a.m. on the 20th day of July, 2007.

Session Law 2007-249 **Senate Bill 1287**

AN ACT TO PROVIDE THAT THE OFFICE OF INDIGENT DEFENSE SERVICES OF THE JUDICIAL DEPARTMENT MAY HAVE ACCESS TO SOCIAL SECURITY INFORMATION SUBMITTED AS PART OF AN APPLICATION FOR A DRIVERS LICENSE AND KEPT ON FILE AT THE DIVISION OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, and amendments to that law.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

(1) For the purpose of administering the drivers license laws.

(2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.

(3) To the Department of Revenue for the purpose of verifying taxpayer identity.

(4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered."

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

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law upon approval of the Governor at 3:21 a.m. on the 20th day of July, 2007.

Session Law 2007-250 **Senate Bill 238**

AN ACT TO ADJUST THE ADDITIONAL TAX RATE ON PROPERTY COVERAGE CONTRACTS TO BE REVENUE NEUTRAL BASED ON AN EXPANSION OF THE TAX BASE ENACTED IN S.L. 2006-196, TO INCREASE THE DISTRIBUTION OF THE TAX PROCEEDS TO THE VOLUNTEER FIRE DEPARTMENT FUND, TO AMEND THE VOLUNTEER FIRE DEPARTMENT GRANT PROGRAM TO ALLOW MORE DEPARTMENTS TO QUALIFY FOR GRANTS, AND TO MODIFY THE DISTRIBUTION OF TAX PROCEEDS TO THE LOCAL FIREMEN'S RELIEF FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.5(d)(3), as amended by Section 3 of S.L. 2006-196, reads as rewritten:

"(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of ~~eighty-five hundredths percent (.85%)~~ seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Twenty percent (20%)~~ Thirty percent (30%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty-five percent (25%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. The remaining net proceeds must be credited to the General Fund.

The following definitions apply in this subdivision:

a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.

b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger

automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery. The term also includes insurance contracts for wind damage.

c. NAIC. – National Association of Insurance Commissioners."

SECTION 2. G.S. 58-84-25, as amended by Section 7 of S.L. 2006-196, reads as rewritten:

"§ **58-84-25. Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall ~~pay~~ distribute the remaining tax proceeds to the treasurer of each fire district ~~on a per capita basis, using the most recent annual population estimates certified by the State Budget Officer.~~ as provided in subsections (b) and (c) of this section.

(b) Allocation to Counties. – The Insurance Commissioner shall allocate to each county an amount of tax proceeds based upon the amount allocated to it in the previous year. If the amount allocable in the current year is less than the amount allocated in the previous year, then the Commissioner shall reduce the amount allocated to each county. The amount of the reduction is equal to the difference in the amount allocated in the previous year and the amount allocable in the current year multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State. If the amount allocable in the current year is greater than the amount allocated in the previous year, then the Commissioner shall increase the amount allocated to each county. The amount of the increase is equal to the excess proceeds multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State.

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations to the fire districts in that county. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by January 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(d) Administration. – These funds shall be held by the treasurer of a fire district as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the firemen's local relief fund in each fire district, which board shall be composed of five members, residents of the fire district as hereinafter provided for, to be used by it for the purposes provided in G.S. 58-84-35."

SECTION 3. G.S. 58-87-1, as amended by Section 8 of S.L. 2006-196, reads as rewritten:

"§ **58-87-1. Volunteer Fire Department Fund.**

(a) Fund. – The Volunteer Fire Department Fund is created as an interest-bearing, nonreverting fund in the Department to provide matching grants to volunteer fire departments to purchase equipment and make capital improvements. The Commissioner shall administer the Fund. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.

(a1) Grant Program. – An eligible fire department may apply to the Commissioner for a grant under this section. In awarding grants under this section, the Commissioner must, to the extent possible, select applicants from all parts of the State based upon need. The Commissioner must award the grants on May 15 of each year subject to the following limitations:

(1) The size of a grant may not exceed ~~twenty thousand dollars ($20,000);~~thirty thousand dollars ($30,000).

(2) The applicant shall match the grant on a dollar-for-dollar ~~basis;~~basis.

(3) The grant may be used only for equipment purchases, payment of highway use taxes on those purchases, or capital expenditures necessary to provide fire protection ~~services; and~~services.

(4) An applicant may receive no more than one grant per fiscal year.

(b) Eligible Fire Department. – A fire department is eligible for a grant under this section if it meets all of the conditions of this subsection. No fire department may be declared ineligible for a grant solely because it is classified as a municipal fire department.

(1) It serves a response area of ~~6,000~~12,000 or less in population. In making the population determination, the Department must use the most recent annual population estimates certified by the State Budget Officer.

(2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of ~~three~~ six full-time paid positions.

(3) It has been certified by the Department of Insurance.

(c) Report. – The Commissioner must submit a written report to the General Assembly within 60 days after the grants have been made. This report must contain the amount of the grant and the name of the recipient."

SECTION 4. Notwithstanding G.S. 58-84-25, as amended by this section, for the initial allocation of tax proceeds after January 1, 2008, the Insurance Commissioner shall calculate the allocation by setting the previous year's allocation as the amount of tax proceeds distributed in the previous year to the fire districts located in each county. If a fire district is located in more than one county, the Commissioner must allocate the distribution between those counties in proportion to the tax value of the property in the district located in each county.

SECTION 5. Section 1 of this act is effective for taxable years beginning on or after January 1, 2008. The remainder of this act becomes effective January 1, 2008.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 10:30 a.m. on the 20th day of July, 2007.

Session Law 2007-251 **Senate Bill 1432**

AN ACT TO ALLOW FOR A MEANINGFUL CHALLENGE TO AN ADMINISTRATIVE SUBPOENA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-4(h) reads as rewritten:

"§ **96-4. Administration.**

…

(h) Oaths and Witnesses. – In the discharge of the duties imposed by this Chapter, the chairman and any duly authorized representative or member of the Commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this Chapter. Upon a motion, the chairman and any duly authorized representative or member of the Commission may quash a subpoena if, after a hearing, the Commission finds any of the following:

(1) The subpoena requires the production of evidence that does not relate to a matter in issue.

(2) The subpoena fails to describe with sufficient particularity the evidence required to be produced.

(3) The subpoena is subject to being quashed for any other reason sufficient in law."

SECTION 2. G.S. 96-4 is amended by adding a new subsection to read:

"(h1) Hearing on Motion to Quash Subpoena; Appeal. – A hearing on a motion to quash a subpoena pursuant to subsection (h) of this section shall be heard at least 10 days prior to the hearing for which the subpoena was issued. The denial of a motion to quash a subpoena is subject to immediate judicial review in the Superior Court of Wake County or in the superior court of the county where the person subject to the subpoena resides."

SECTION 3. G.S. 105-290(d) reads as rewritten:

"§ **105-290. Appeals to Property Tax Commission.**

…

(d) Witnesses and Documents. – Upon its own motion or upon the request of any party to an appeal, the Property Tax Commission, or any member of the Commission, or any employee of the Department of Revenue so authorized by the Commission shall examine witnesses under oath administered by any member of the Commission or any employee of the Department so authorized by the Commission, and examine the documents of any person if there is ground for believing that information contained in such documents is pertinent to the decision of any appeal pending before the Commission, regardless of whether such person is a party to the proceeding before the Commission. Witnesses and documents examined under the authority of this subsection (d) shall be examined only after service of a subpoena as provided in subdivision (d)(1), below. The travel expenses of any witness subpoenaed and the cost of serving any subpoena shall be borne by the party that requested the subpoena.

(1) The Property Tax Commission, a member of the Commission, or any employee of the Department of Revenue authorized by the Commission, is authorized and empowered to subpoena witnesses and

to subpoena documents upon a subpoena to be signed by the chairman of the Commission directed to the witness or witnesses or to the person or persons having custody of the documents sought. Subpoenas issued under this subdivision may be served by any officer authorized to serve subpoenas.

(2) Any person who shall willfully fail or refuse to appear, to produce subpoenaed documents in response to a subpoena, or to testify as provided in this subsection (d) shall be guilty of a Class 1 misdemeanor.

(3) Upon a motion, the Property Tax Commission, or a member of the Commission may quash a subpoena if, after a hearing, the Commission finds any of the following:

a. The subpoena requires the production of evidence that does not relate to a matter in issue.

b. The subpoena fails to describe with sufficient particularity the evidence required to be produced.

c. The subpoena is subject to being quashed for any other reason sufficient in law."

SECTION 4. G.S. 105-290 is amended by adding a new subsection to read:

"(d1) Hearing on Motion to Quash Subpoena; Appeal. – A hearing on a motion to quash a subpoena pursuant to subdivision (d)(3) of this section shall be heard at least 10 days prior to the hearing for which the subpoena was issued. The denial of a motion to quash a subpoena is subject to immediate judicial review in the Superior Court of Wake County or in the superior court of the county where the person subject to the subpoena resides."

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

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 10:34 a.m. on the 20th day of July, 2007.

Session Law 2007-252 **Senate Bill 632**

AN ACT TO REPEAL THE LAW ESTABLISHING THE BLACK MOUNTAIN ADVANCEMENT CENTER FOR WOMEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-269 is repealed.

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Became law upon approval of the Governor at 10:34 a.m. on the 20th day of July, 2007.

Session Law 2007-253 **House Bill 91**

AN ACT TO PROVIDE FOR IN-PERSON REGISTRATION AND VOTING AT ONE-STOP ABSENTEE VOTING SITES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-82.6A. In-person registration and voting at one-stop sites.**

(a) Who May Register in Person. – In accordance with the provisions in this section, an individual who is qualified to register to vote may register in person and then vote at a one-stop voting site in the person's county of residence during the period for one-stop voting provided under G.S. 163-227.2. For purposes of this section, a one-stop voting site includes the county board of elections office, if that office is used for one-stop voting.

(b) Both Attestation and Proof of Residence Required. – To register and vote under this section, the person shall do both of the following:

(1) Complete a voter registration form as prescribed in G.S. 163-82.4, including the attestation requirement of G.S. 163-82.4(b) that the person meets each eligibility requirement. Such attestation is signed under penalty of a Class I felony under G.S. 163-275(13); and

(2) Provide proof of residence by presenting any of the following valid documents that show the person's current name and current residence address: a North Carolina drivers license, a photo identification from a government agency, or any of the documents listed in G.S. 163-166.12(a)(2). The State Board of Elections may designate additional documents or methods that suffice and shall prescribe procedures for establishing proof of residence.

(c) Voting With Retrievable Ballot. – A person who registers under this section shall vote a retrievable absentee ballot as provided in G.S. 163-227.2 immediately after registering. If a person declines to vote immediately, the registration shall be processed, and the person may later vote at a one-stop voting site under this section in the same election.

(d) Verification of Registration; Counting of Ballot. – Within two business days of the person's registration under this section, the county board of elections in conjunction with the State Board of Elections shall verify the North Carolina drivers license or Social Security number in accordance with G.S. 163-82.12, update the statewide registration database and search for possible duplicate registrations, and proceed under G.S. 163-82.7 to verify the person's address. The person's vote shall be counted unless the county board determines that the applicant is not qualified to vote in accordance with the provisions of this Chapter.

(e) Change of Registration at One-Stop Voting Site. – A person who is already registered to vote in the county may update the information in the registration record in accordance with procedures prescribed by the State Board of Elections, but an individual's party affiliation may not be changed during the one-stop voting period before any first or second partisan primary in which the individual is eligible to vote."

SECTION 2. G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, except as provided in G.S. 163-82.6A, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, by facsimile transmission, or by transmission of a scanned document, must be received by the county board of elections by a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section."

SECTION 3. G.S. 163-227.2(a) reads as rewritten:

"(a) Any voter eligible to vote by absentee ballot under G.S. 163-226 may request an application for absentee ballots, complete the application, and vote under the provisions of this ~~section.~~section and of G.S. 163-82.6A, as applicable."

SECTION 4. The State Board of Elections shall monitor the implementation of this act and determine the feasibility and timetable for expanding same-day registration and voting to all voting places on Election Day. The State Board shall report its findings no later than March 1, 2009, to the Joint Legislative Commission on Governmental Operations of the General Assembly.

SECTION 5. Sections 1, 2, and 3 of this act become effective as follows:

(1) If preclearance under Section 5 of the Voting Rights Act of 1965 is obtained before September 1, 2007, those sections are effective with regard to registration and voting for any primary or election held on or after October 9, 2007.

(2) If preclearance is obtained during September 2007, those sections are effective with regard to registration and voting for any primary or election held on or after November 6, 2007.

(3) If preclearance is obtained on or after October 1, 2007, those sections are effective with regard to registration and voting for any primary or election held on or after the 60th day after preclearance is obtained.

The remainder of this act is effective when it becomes law. The State Board of Elections may adopt any necessary procedures to implement this act at any time after this act becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law upon approval of the Governor at 10:41 a.m. on the 20th day of July, 2007.

Session Law 2007-254 **Senate Bill 227**

AN ACT TO AUTHORIZE THE COUNTY OF NEW HANOVER AND THE CITY OF WILMINGTON TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S PUBLIC NUISANCE ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2005-44 reads as rewritten:

"**SECTION 1.** A municipality may notify a chronic violator of the municipality's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial

annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three times under any provision of the public nuisance ordinance. The term "municipality" means a city or a county."

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

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

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-255 **Senate Bill 221**

AN ACT CONCERNING INVESTMENTS OF THE CITIES OF CHARLOTTE, GREENSBORO, AND RALEIGH, AND THE COUNTIES OF GUILFORD, MECKLENBURG, AND WAKE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 8 of the Charter of the City of Charlotte, being S.L. 2000-26 as amended, is amended by adding a new Article to read:

"ARTICLE VII. INVESTMENT AUTHORITY.

"Section 8.141. **Certain investments.** In addition to the authority granted in G.S. 159-30, the City may invest and reinvest any of the City's employee benefit funds held in trust, risk reserve funds, cemetery perpetual care funds, and capital reserves, as designated from time to time by the City Council, in one or more of the types of securities or other investments authorized by State law for the State Treasurer in G.S. 147-69.2(b)(1)-(6) and (8)."

SECTION 2. In addition to the authority granted in G.S. 159-30, any local government, or any governing body, agency, person, or other corporation that contracts with the local government, may invest and reinvest any of the local government's employee benefit funds held in trust, risk reserve funds, and capital reserves, as designated from time to time by the local government's governing body, in one or more of the types of securities or other investments authorized by State law for the State Treasurer in G.S. 147-69.2(b)(1)-(6) and (8). This authority is granted, notwithstanding the provisions of G.S. 153A-93, 153A-149, 159-18, 159-30, 159-31, or any other provision of law.

SECTION 3. Section 2 of this act applies only to the cities of Greensboro and Raleigh, and the counties of Guilford, Mecklenburg and Wake.

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-256 **Senate Bill 432**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTIES FROM THE CORPORATE LIMITS OF THE CITY OF GREENSBORO.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property that is currently within the corporate limits of the City of Greensboro is hereby removed from the corporate limits of the City of Greensboro:

TRACT 1

BEGINNING at a point that is located N 59°59'03" W 213.83 feet from the intersection of US Route 421 (West Market Street) and Burgess Road and running thence from said BEGINNING point, N 31°44'25.00" W 136.3100 feet; thence N 4°58'24.00" E 163.4600 feet; thence N 4°59'15.00" E 42.6300 feet; thence N 3°01'10.00" E 212.7600 feet; thence N 9°59'05.00" W 339.4100 feet; thence N 23°00'40.00" W 212.9900 feet; thence N 25°01'55.00" W 117.2900 feet; thence N 23°47'30.00" W 191.1500 feet; thence N 75°50'30.00" E 210.4000 feet; thence N 7°34'06.00" E 74.5500 feet; thence N 18°53'35.00" E 123.0000 feet; thence N 49°27'55.00" E 128.8100 feet to a point; thence along a curve to the right having a radius of 1438.58 feet, an arc distance of 181.7000 feet, and a chord bearing and chord distance of S 74°01'32.85" E 181.58 feet; thence S 74°01'33.70" E 267.6900 feet; thence S 69°36'02.70" E 60.1800 feet; thence S 74°03'45.00" E 31.6200 feet to a point; thence along a curve to the right having a radius of 25.00 feet, an arc distance of 20.5121 feet, and a chord bearing and chord distance of S 55°59'31.25" E 19.94 feet; thence S 14°25'35.00" W 539.5500 feet; thence S 14°15'22.89" W 199.1496 feet; thence S 14°19'29.00" W 774.3700 feet; thence S 60°45'41.00" W 110.8700 feet; thence N 82°24'11.61" W 104.4575 feet to the POINT OF BEGINNING, containing 18.5193 acres, more or less.

TRACT 2

BEGINNING at a point that is located S 39°28'32" E 43.25 feet from the intersection of Burgess Road and Canoe Road and running thence from said BEGINNING point; S 78°27'12.65" E 957.1978 feet; thence S 11°38'35.97" W 771.9353 feet; thence N 77°10'00.00" W 393.8007 feet; thence N 11°32'47.35" E 575.6791 feet; thence N 78°27'12.65" W 577.7861 feet; thence N 16°18'11.00" E 188.0589 feet to the POINT OF BEGINNING, containing 9.4007 acres, more or less.

TRACT 3

BEGINNING at a point that is located N 29°08'07" W 448.57 feet from the intersection of Regional Road and Canoe Road and running thence N 00°54'00" E 237.95 feet to a point on the northeast right-of-way line of former Lebanon Road; thence in a north-westerly direction along the northeast right-of-way line of former Lebanon Road approximately 2,200 feet to a point, said point being the point of intersection with the straight line projection of the northern property line of the tract acquired by the Piedmont Triad Airport Authority from Kermit G. Phillips, II, et al; thence crossing former Lebanon Road and running with the northern line of said tract, N 87°27'02" W 739.1 feet to a point on the easterly right-of-way line of Burgess Road; thence S 5°53'09.44" W 365.7359 feet to a point; thence along a curve to the right, having a radius of 5132.78 feet, an arc distance of 575.1087 feet, and a chord bearing and chord distance of S 8°21'44.13" W 574.81 feet; thence S 12°55'27.01" W 232.7001 feet;

thence S 14°03'13.23" W 682.6083 feet; thence S 78°27'12.65" E 949.7339 feet; thence S 84°20'13.11" E 57.4734 feet; thence S 77°08'11.67" E 194.9970 feet; thence N 12°56'10.00" E 169.7800 feet; thence N 76°33'19.00" W 34.9000 feet; thence N 13°18'02.45" E 150.8400 feet; thence S 77°09'37.00" E 159.3300 feet; thence N 12°49'56.00" E 124.9400 feet; thence N 77°10'00.00" W 160.0000 feet; thence N 12°50'00.00" E 92.0954 feet; thence S 77°26'20.66" E 157.0677 feet; thence S 59°34'41.00" E 60.4494 feet; thence S 30°25'19.00" W 40.9163 feet; thence S 11°05'19.00" W 100.0000 feet; thence S 10°35'40.35" W 99.7751 feet; thence S 12°58'47.10" W 100.6884 feet; thence S 12°52'37.83" W 169.5081 feet; thence S 77°00'18.00" E 75.1300 feet; thence S 80°09'49.77" E 107.6624 feet; thence S 78°51'13.00" E 200.9147 feet; thence N 12°38'39.00" E 346.8397 feet; thence N 32°44'08.60" E 94.2091 feet; thence S 78°10'43.00" E 328.7100 feet; thence S 55°18'30.00" E 277.01 feet to the POINT OF BEGINNING, containing 60.0358 acres, more or less.

TRACT 4

BEGINNING at a point that is located S 81°58'44" E 491.64 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point N 8°58'14.00" E 187.0000 feet; thence S 78°51'31.00" E 101.8864 feet; thence S 79°43'08.00" E 149.0600 feet; thence S 8°56'14.00" W 188.5800 feet: thence N 79°00'36.00" W 251.1000 feet to the POINT OF BEGINNING, containing 1.0790 acres, more or less.

TRACT 5

BEGINNING at a point that is located S 08°31'14" W 486.85 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point S 78°35'00.00" E 175.0000 feet; thence S 11°29'38" W 100.07 feet; thence S 10°19'58" W 101.84 feet; thence S 11°09'54" W 200.00 feet; thence N 78°35'00" W 175.00 feet; thence N 11°09'53" E 200.00 feet; thence N 10°19'58" E 101.89 feet; thence N 11°34'12" E 100.00 feet to the POINT OF BEGINNING, containing 1.6144 acres, more or less.

TRACT 6

BEGINNING at a point that is located S 38°38'50" E 33.28 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point S 78°35'00.00" E 125.0000 feet; thence S 76°38'32.15" E 112.3207 feet; thence S 78°35'00.00" E 112.5000 feet; thence S 11°25'00.00" W 164.6000 feet; thence N 77°21'48.08" W 102.5826 feet; thence S 11°25'00.00" W 100.0000 feet; thence N 78°28'00.00" W 249.9998 feet; thence N 11°24'58.47" E 99.4909 feet; thence N 12°22'58.03" E 166.2440 feet to the POINT OF BEGINNING, containing 1.9003 acres, more or less.

TRACT 7

BEGINNING at a point that is located S 59°07'50" W 33.79 feet from the intersection of Arrow Road and Canoe Road and running thence from said BEGINNING point S 11°24'39.00" W 164.5300 feet; thence S 11°56'28.54" W 99.9531 feet; thence S 11°00'56.77" W 134.2006 feet; thence N 79°33'55.66" W 175.6348 feet; thence N 11°25'00.00" E 137.2078 feet; thence N 11°45'07.56" E 99.9506 feet; thence N 11°28'43.00" E 164.6000 feet; thence S 78°33'37.51" E 174.8053 feet to the POINT OF BEGINNING, containing 1.6076 acres, more or less.

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-257 **Senate Bill 649**

AN ACT TO REPEAL EXEMPTIONS FROM A LOCAL ACT LIMITING HEIGHT OF BUILDINGS IN THE CITY OF HENDERSONVILLE AND TO NARROW ITS APPLICABILITY TO A DEFINED AREA WITHIN THAT CITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 38 of S.L. 2006-259 is repealed, thus removing four exemptions from the limit on the height of structures in the City of Hendersonville as enacted by Section 3 of S.L. 2006-126.

SECTION 2. Section 3 of S.L. 2006-126 is amended by adding a new subsection to read:

"**SECTION 3.(c)** This section applies only to the following described area within the corporate limits of the City of Hendersonville, with all calls being from the centerline of the road:

Beginning at the intersection of South Main Street and South Church Street, thence north on South Main Street to its intersection with South King Street, thence North on South King Street to its intersection with East Barnwell Street, thence east on East Barnwell Street to its intersection with South Grove Street, thence North on South Grove Street and North Grove Street to its intersection with 7th Avenue East, thence Northeast on 7th Avenue East to its intersection with Locust Street, thence Northwest on Locust Street to its intersection with North Main Street, thence South on North Main Street to its intersection with 9th Avenue West, thence West on 9th Avenue West to its intersection with Oakland Street, thence South on Oakland Street to its intersection with 8th Avenue West, thence East on 8th Avenue West to its intersection with Buncombe Street, thence South on Buncombe Street to its intersection with 4th Avenue West, thence West on 4th Avenue West to its intersection with Buncombe Street, thence South on Buncombe Street to its intersection with 1st Avenue West, thence East on 1st Avenue West to its intersection with South Washington Street, thence South in South Washington Street to its intersection with Kanuga Road, thence East on Kanuga Road to its intersection with South Church Street, thence South on South Church Street to its intersection with South Main Street, the point and place of beginning."

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-258 **Senate Bill 652**

AN ACT AUTHORIZING THE CITIES OF EDEN, REIDSVILLE, AND ROCKINGHAM TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITIES' OVERGROWN VEGETATION ORDINANCES AND ALLOWING THE CITY OF EDEN TO AMEND BY ORDINANCE A PROVISION OF ITS CHARTER.

The General Assembly of North Carolina enacts:

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

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

SECTION 2.(a) The City of Eden by ordinance may amend its charter to repeal Section 3.4, as found in Section 6 of Chapter 967 of the 1967 Session Laws.

SECTION 2.(b) In order to take any action under subsection (a) of this section, the city council shall adopt an ordinance amending the charter. If such ordinance is adopted, the city clerk shall file a certified true copy with the Secretary of State and the Legislative Library.

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-259 **House Bill 254**

AN ACT TO ALLOW THE CITY OF CONOVER TO ADOPT ORDINANCES REGULATING GOLF CARTS AND UTILITY VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-124, as amended by S.L. 2004-58 and S.L. 2007-204, reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Towns of Beech Mountain, North Topsail Beach, and Seven ~~Devils~~ Devils, and the City of Conover may, by ordinance, regulate the operation of golf carts and utility vehicles on any public street or road within the City or Town. By ordinance, the City or Town may require the registration of golf carts and utility vehicles, specify the persons authorized to operate golf carts and utility vehicles, and specify required equipment, load limits, and the hours and methods of operation of the golf carts and utility vehicles."

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-260 **Senate Bill 1359**

AN ACT TO ALLOW THE OPERATOR OF A MOTORCYCLE TO PROCEED THROUGH AN INTERSECTION CONTROLLED BY A TRAFFIC SIGNAL ONLY IF THE TRAFFIC SIGNAL USES AN INDUCTIVE LOOP VEHICLE SENSOR THAT ACTIVATES THE TRAFFIC SIGNAL AND THE INDUCTIVE LOOP FAILS TO DETECT THE MOTORCYCLE AND ACTIVATE THE TRAFFIC SIGNAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-158 is amended by adding a new subsection to read:

"§ **20-158. Vehicle control signs and signals.**

…

(e) Defense. – It shall be a defense to a violation of sub-subdivision (b)(2)a. of this section if the operator of a motorcycle, as defined in G.S. 20-4.01(27)d., shows all of the following:

(1) The operator brought the motorcycle to a complete stop at the intersection or stop bar where a steady red light was being emitted in the direction of the operator.

(2) The intersection is controlled by a vehicle actuated traffic signal using an inductive loop to activate the traffic signal.

(3) No other vehicle that was entitled to have the right-of-way under applicable law was sitting at, traveling through, or approaching the intersection.

(4) No pedestrians were attempting to cross at or near the intersection.

(5) The motorcycle operator who received the citation waited a minimum of three minutes at the intersection or stop bar where the steady red light was being emitted in the direction of the operator before entering the intersection."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law upon approval of the Governor at 9:00 p.m. on the 23rd day of July, 2007.

Session Law 2007-261 **House Bill 183**

AN ACT TO MAKE IT UNLAWFUL TO USE A MOBILE TELEPHONE OR ADDITIONAL TECHNOLOGY WHILE OPERATING A PUBLIC OR PRIVATE SCHOOL BUS, WHILE OPERATING A SCHOOL ACTIVITY BUS, OR WHILE TRANSPORTING STUDENTS FOR HIRE IN ANY VEHICLE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-137.4. Unlawful use of a mobile phone.**

(a) Definitions. – For purposes of this section, the following terms shall mean:

(1) Additional technology. – As defined in G.S. 20-137.3(a)(1).

(2) Emergency situation. – Circumstances such as medical concerns, unsafe road conditions, matters of public safety, or mechanical problems that create a risk of harm for the operator or passengers of a school bus.

(3) Mobile telephone. – As defined in G.S. 20-137.3(a)(2).

(4) School bus. – As defined in G.S. 20-4.01(27)d4. The term also includes any school activity bus as defined in G.S. 20-4.01(27)d3. and any vehicle transporting public, private, or parochial school students for compensation.

(b) Offense. – Except as otherwise provided in this section, no person shall operate a school bus on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while

the school bus is in motion. This prohibition shall not apply to the use of a mobile telephone or additional technology associated with a mobile telephone in a stationary school bus.

(c) Seizure. – The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone or additional technology, unless otherwise provided by law.

(d) Exceptions. – The provisions of subsection (b) of this section shall not apply to the use of a mobile telephone or additional technology associated with a mobile telephone for the sole purpose of communicating in an emergency situation.

(e) Local Ordinances. – No local government may pass any ordinance regulating the use of mobile telephones or additional technology associated with a mobile telephone by operators of school buses.

(f) Penalty. – A violation of this section shall be a Class 2 misdemeanor and shall be punishable by a fine of not less than one hundred dollars ($100.00). No drivers license points or insurance surcharge shall be assessed as a result of a violation of this section. Failure to comply with the provisions of this section shall not constitute negligence per se or contributory negligence by the operator in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a school bus."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law upon approval of the Governor at 9:03 p.m. on the 23rd day of July, 2007.

Session Law 2007-262 **House Bill 445**

AN ACT TO AUTHORIZE CHILD PLACEMENT AGENCIES TO ACT AS CONFIDENTIAL INTERMEDIARIES BETWEEN ADULT ADOPTEES, AN ADULT LINEAL DESCENDANT OF A DECEASED ADOPTEE, AND A BIOLOGICAL PARENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 48-9-101 reads as rewritten:

"§ **48-9-101. ~~Records~~ Certain terms defined.**

(a) For purposes of this Article, "records" means any petition, affidavit, consent or relinquishment, transcript or notes of testimony, deposition, power of attorney, report, decree, order, judgment, correspondence, document, invoice, receipt, certificate, or other printed, written, microfilmed or microfiched, video-taped or tape-recorded material or electronic data processing records regardless of physical form or characteristics pertaining to a proceeding for adoption under this Chapter.

(b) Notwithstanding G.S. 48-1-101, for purposes of this Article, "adult" means an individual who has attained 21 years of age."

SECTION 2. G.S. 48-1-101 is amended by inserting in alphabetical order the following new subdivisions to read:

"In this Chapter, the following definitions apply:

…

(*) 'Confidential intermediary' means a licensed adoption agency staff person who may act as a third party to facilitate contact between an adult adoptee or the adult lineal descendant of a deceased adoptee and the biological parent.

(*) 'Lineal descendant of a deceased adoptee' means any person who descends from the direct line of the adoptee.

…."

SECTION 3. G.S. 48-9-104 reads as rewritten:

"§ **48-9-104. Release of identifying information.**

(a) Except as provided in ~~G.S. 48-9-109(2),~~G.S. 48-9-109(2) or (3), no person or entity shall release from any records retained and sealed under this Article the name, address, or other information that reasonably could be expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at birth, or an individual who, but for the adoption, would be the adoptee's sibling or grandparent, except upon order of the court for cause pursuant to G.S. 48-9-105.

(b) A child placing agency licensed by the Department or a county department of social services may agree to act as a confidential intermediary for a biological parent or adult adoptee or adult lineal descendant of a deceased adoptee, without appointment by the court pursuant to G.S. 48-9-105, in order to obtain and share nonidentifying birth family health information or facilitate contact or share identifying information with adult adoptees, adult lineal descendants of deceased adoptees, and biological parents with the written consent of all parties to the contact or the sharing of information. Further, a child placing agency licensed by the Department or a county department of social services may agree to act as a confidential intermediary for the adoptive parents of a minor adoptee, without appointment by the court pursuant to G.S. 48-9-105, to obtain and share nonidentifying birth family health information. An agency that agrees to provide confidential intermediary services may charge a reasonable fee for doing so, which fee must be pursuant to written agreement signed by the individual to be charged. The Division shall establish guidelines for confidential intermediary services."

SECTION 4. G.S. 48-9-109 reads as rewritten:

"§ **48-9-109. Certain disclosures authorized.**

Nothing in this Article shall be interpreted or construed to prevent:

(1) An employee of a court, agency, or any other person from:

a. Inspecting permanent, confidential, or sealed records, other than records maintained by the State Registrar, for the purpose of discharging any obligation under this Chapter.

b. Disclosing the name of the court where a proceeding for adoption occurred, or the name of an agency that placed an adoptee, to an individual described in G.S. 48-9-104 who can verify his or her identity.

c. Disclosing or using information contained in permanent and sealed records, other than records maintained by the State Registrar, for statistical or other research purposes as long as the disclosure will not result in identification of a person who is the subject of the information and subject to any further conditions the Department may reasonably impose.

(2) In agency placements, a parent or guardian placing a child for adoption and the adopting parents from authorizing an agency to release information or from releasing information to each other that could

reasonably be expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, or an adoptee's placing parent or guardian. The consent to the release of identifying information shall be in writing and signed prior to the adoption by any placing parent or guardian and the adopting parents and acknowledged under oath in the presence of an individual authorized to administer oaths or take acknowledgments. Any consent to release identifying information shall be filed under G.S. 48-2-305.

(3) The Division from sharing information from its records regarding the identity of birth parents with an agency acting as a confidential intermediary pursuant to G.S. 48-9-104(b), if the information is needed by the agency to carry out its duties as a confidential intermediary. Any information disclosed to the agency pursuant to this subdivision shall not be redisclosed by the agency except as allowed by G.S. 48-9-104(b)."

SECTION 7. This act becomes effective January 1, 2008.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law upon approval of the Governor at 9:05 p.m. on the 23rd day of July, 2007.

Session Law 2007-263 **House Bill 27**

AN ACT TO PROVIDE THAT A FILM AND PHOTOGRAPHIC PRINT PROCESSOR OR A COMPUTER TECHNICIAN WHO, IN THE PERSON'S SCOPE OF EMPLOYMENT, OBSERVES AN IMAGE OF A MINOR OR A PERSON WHO REASONABLY APPEARS TO BE A MINOR ENGAGING IN SEXUAL ACTIVITY MUST REPORT THE NAME OF THE PERSON REQUESTING THE PROCESSING OF THE FILM OR PHOTOGRAPHS OR IN POSSESSION OF THE COMPUTER TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN OR TO THE APPROPRIATE LOCAL LAW ENFORCEMENT OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 66 is amended by adding a new section to read:

"**§ 66-67.4. Film and photographic print processor or computer technician to report film or computer images containing pictures of a minor engaging in sexual activity.**

(a) As used in this section:

(1) "Computer technician" means any person who repairs, installs, or otherwise services any computer or computer network or system for compensation.

(2) "Processor of photographic images" means any person who, for compensation: (i) develops exposed photographic film into negatives, slides, or prints; (ii) makes prints from negatives, slides, digital images, or video; or (iii) develops, processes, transfers, edits, or enhances video or digital images.

(3) "Minor" has the same meaning as in G.S. 14-190.13.

(4) "Sexual activity" has the same meaning as in G.S. 14-190.13.

(b) Any processor of photographic images or any computer technician who, within the person's scope of employment, observes an image of a minor or a person who reasonably appears to be a minor engaging in sexual activity shall report the name and address of the person requesting the processing of the film or photographs or the owner or person in possession of the computer or computer network or system to the Cyber Tip Line at the National Center for Missing and Exploited Children or to the appropriate law enforcement official in the county or municipality in which the image or film was submitted.

(c) An employee of a processor of photographic images or computer technician may satisfy the requirements of this section by reporting the required information to a person designated by the employer. The person designated by the employer shall then report as required by subsection (b) of this section.

(d) Any person, their employer, or a third party complying with this section in good faith shall be immune from any civil or criminal liability that might otherwise be incurred as a result of the report. In any proceeding involving liability, good faith is presumed."

SECTION 2. This act becomes effective September 1, 2007.

In the General Assembly read three times and ratified this the 12th day of July, 2007.

Became law upon approval of the Governor at 9:07 p.m. on the 23rd day of July, 2007.

Session Law 2007-264 **Senate Bill 473**

AN ACT TO PROHIBIT HUNTING AND FISHING ON PRIVATE PROPERTY WITHOUT WRITTEN PERMISSION FROM THE LANDOWNER OR LESSEE AND TO PROHIBIT HUNTING ON PRIVATE PROPERTY WHILE UNDER THE INFLUENCE OF AN IMPAIRING SUBSTANCE.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to take wildlife or attempt to take wildlife on the land of another, or to fish on the land of another, without having on one's person while hunting or fishing the written permission, signed and dated for the current hunting or fishing season, of the landowner or lessee, or the landowner's or lessee's designee. The written permission shall not be valid for more than one year and may be valid for a shorter period stated in the permission. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other law enforcement officers with general subject matter jurisdiction.

SECTION 2. It is unlawful for a person to take wildlife or attempt to take wildlife on the land of another while under the influence of an impairing substance or after having consumed sufficient alcohol that the person has an alcohol concentration of 0.08 or more. For purposes of this section, the terms "impairing substance" and "under the influence of an impairing substance" are defined as set forth in G.S. 20-4.01.

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

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

SECTION 5. Sections 1 through 4 of this act apply to Caswell, Johnston, and Stanly Counties. Sections 1, 3, and 4 of this act apply to Orange County.

SECTION 6. Section 4 of S.L. 2005-264 reads as rewritten:

"**SECTION 4.** This act applies only to ~~Orange and~~ Wilson ~~Counties.~~County."

SECTION 7. This act becomes effective October 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-265 **House Bill 78**

AN ACT TO AUTHORIZE BURKE COUNTY TO LEVY AN ADDITIONAL THREE PERCENT OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 422 of the 1989 Session Laws, as amended by Chapter 143 of the 1995 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. – (a) Authorization and ~~scope.~~ Scope. – The Burke County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious ~~organizations.~~organizations when furnished in furtherance of their nonprofit purpose.

(a1) Authorization of Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Burke County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection must be in accordance with this act. Burke County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected.~~

(c) Administration. – A tax levied under this act must be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in

G.S. 153A-155 apply to a tax levied under this act.~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

(c1) Definitions. – The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~

(e) Distribution and Use of ~~tax revenue.~~ Tax Revenue. – Burke County ~~shall use~~ must, on a quarterly basis, remit the net proceeds of the occupancy tax ~~only to promote economic development and travel and tourism in Burke County. The county may allocate the net proceeds one-half for economic development and one-half for travel and tourism or in any other ratio the board of commissioners considers appropriate. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.~~levied under this act to the Burke County Tourism Development Authority. The Authority must use the proceeds as follows:

(1) First three percent (3%). – At least two-thirds must be used to promote travel and tourism in Burke County, and the remainder must be used for tourism-related expenditures in Burke County.

(2) Remainder. – The Authority must segregate the remaining net proceeds into three separate accounts as set out in this subdivision. The Authority must use at least two-thirds of the funds in each account to promote travel and tourism in each of the named areas and must use the remainder for tourism-related expenditures in each of the named areas. The amounts and accounts are as follows:

a. Forty-five percent (45%) must be remitted to the Morganton Account.

b. Thirty percent (30%) must be remitted to the Burke County Account.

c. Twenty-five percent (25%) must be remitted to the Valdese Account.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Burke County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

"Sec. 1.1. Burke County Tourism Development Authority. – (a) Appointment and Membership. – When the Burke County Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it must also adopt a resolution creating a county Tourism Development Authority that is a public authority under the Local Government Budget and Fiscal Control Act. The resolution must provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the county. Of the total membership, at least one member must represent the Town of Morganton, and at least one member must represent the Town of Valdese. The board of commissioners must designate one member of the Authority as chair and must determine the compensation, if any, to be paid to members of the Authority.

The Authority meets at the call of the chair and must adopt rules of procedure to govern its meetings. The Finance Officer for Burke County is the ex officio finance officer of the Authority.

(b) Duties. – The Authority must expend the net proceeds of the tax remitted to it under this act for the purposes provided in this act. The Authority must promote travel, tourism, and conventions, sponsor tourism-related events and activities, and finance tourism-related capital projects in the county and in the named towns in this act.

(c) Reports. – The Authority must report quarterly and at the close of the fiscal year to the Burke County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

"Sec. 2. This act is effective upon ratification."

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

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

SECTION 3. This act is effective when it becomes law. The Burke County Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-266 **House Bill 555**

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO PROVIDE GREATER FLEXIBILITY IN THE PAYMENT OF SPECIAL ASSESSMENTS AND THE COLLECTION OF DELINQUENT SPECIAL ASSESSMENT PAYMENTS, AND TO ALLOW THE CITY OF ROANOKE RAPIDS TO ASSESS BENEFITED PROPERTIES FOR MAINTENANCE OF PARKING LOTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 5 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, is amended by adding the following new section to read:

"**Section 5-4. Collection of Special Assessment Liens.** (a) In addition to the payment methods provided in G.S. 160A-232, the Board of Aldermen may provide in the resolution directing the project giving rise to the assessment that assessments may be paid in whatever periodic installments, including annually, semiannually, quarterly, or monthly, that are authorized in the resolution. The interest rate applicable to the installments shall be the same without regard to the installment period.

(b) Notwithstanding the provisions of G.S. 160A-233(b), the Board of Aldermen may authorize the town manager or the manager's designee to waive the automatic acceleration of delinquent special assessment payments and to design and establish installment plans for the repayment of special assessments.

(c) To collect delinquent special assessment payments, the town may use any and all of the remedies authorized for the collection of unpaid property taxes under Article 26 of Chapter 105 of the General Statutes."

SECTION 1.(b) This section applies to all special assessments levied by the town under the provisions of its Charter or Article 10 of Chapter 160A of the General Statutes before and after this section's effective date.

SECTION 2.(a) G.S. 160A-216 is amended by adding a new subdivision to read:

"§ **160A-216. Authority to make special assessments.**

Any city is authorized to make special assessments against benefited property within its corporate limits for:

…

(6) Repair and maintenance of parking lots, including, but not limited to, lighting, drainage, and appropriate traffic signage."

SECTION 2.(b) Article 10 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-219.1. Parking lot assessments.**

Assessments for repair and maintenance of parking lots as authorized by G.S. 160A-216(6) may be made only for shopping center parking lots where the parking lot property was acquired by the city either as a result of foreclosure for nonpayment of city property taxes or by transfer of title to the city from another taxing unit that acquired the property as a result of foreclosure for nonpayment of property taxes. Assessments may be made only as to benefited property within the shopping center as defined by the city, and the basis for such assessments shall be made in accordance with G. S. 160A-218."

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

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-267 **House Bill 1191**

AN ACT TO INCORPORATE THE TOWN OF EASTOVER.

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF EASTOVER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Eastover are a body corporate and politic under the name 'Town of Eastover'. The Town of Eastover has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Eastover are as follows:

Beginning at a point, said point being the intersection of the southeast corner of parcel 0458-43-9229 and the western right-of-way of Dobbin Holmes Rd., thence approximately 936 feet in a southwesterly direction with the southern boundary of said parcel, to the southeastern corner of parcel 0458-32-9686, thence approximately 1590 feet in a southwesterly direction with the southern boundary of said parcel, thence approximately 535 feet in a northwesterly direction with the boundary of said parcel, thence approximately 276 feet in a southwesterly direction with the boundary of said parcel, thence approximately 1178 feet in a northeasterly direction with the boundary of said parcel, thence approximately 90 feet in a northwesterly direction along the right-of-way of Terrell Creek Rd. to the southeast corner of parcel 0458-34-7125, thence approximately 180 feet in a northwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-24-6320, thence approximately 685 feet in

a northwesterly direction along the boundary of said parcel, thence approximately 293 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-13-0405, thence approximately 2323 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel 0448-92-9940, thence approximately 1145 feet in a southwesterly direction along the boundary of said parcel to the eastern right-of-way of Middle Rd., thence across Middle Rd. to the western right-of-way of Middle Rd. to the southeast corner of parcel 0448-92-1743, thence approximately 562 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-82-8960, thence approximately 105 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-82-6942, thence approximately 244 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-83-5001, thence approximately 66 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-82-3909, thence approximately 304 feet along the southern boundary of said parcel to the southeast corner of parcel 0448-83-0085, thence approximately 203 feet along the southern boundary of said parcel to the southwest corner of said parcel, thence approximately 175 feet in a northeasterly direction along the western boundary of said parcel to the southwest corner of parcel 0448-83-1224, thence approximately 274 feet along the boundary of said parcel to the northwest corner of said parcel, thence in an easterly direction approximately 100 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-3246, thence in a northeasterly direction approximately 98 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-4369, thence in a northeasterly direction approximately 229 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-6516, thence in a northeasterly direction approximately 224 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-7741, thence in a northeasterly direction approximately 152 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-8832, thence in a northeasterly direction approximately 150 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-9947, thence in a northeasterly direction approximately 293 feet along the boundary of said parcel to the northwest corner of parcel 0448-94-1028, thence in a northeasterly direction approximately 129 feet along the boundary of said parcel to the southwest corner of parcel 0448-94-1659, thence in a northwesterly direction approximately 546 feet along the boundary of parcel 0448-94-1659 to the northwest corner of said parcel, thence in a northeasterly direction approximately 343 feet along the boundary of said parcel to the northwest corner of parcel 0448-95-5005, thence in a northeasterly direction approximately 626 feet to the northeast corner of said parcel, thence in a southerly direction approximately 377 feet along the eastern boundary of said parcel, thence in a northeasterly direction approximately 902 feet along the northern boundary of parcel 0458-04-4981 to the northeast corner of parcel 0458-05-9445, thence in a northwesterly direction approximately 280 feet along the boundary of said parcel to the southernmost corner of parcel 0458-07-6181, thence in a northeasterly direction approximately 1122 feet to the northwest corner of parcel 0458-16-8569, thence in northeasterly direction approximately 575 feet to the western right-of-way margin of Underwood Road, thence in an easterly direction approximately 60 feet to the eastern right-of-way margin of Underwood Road being the northwest corner of parcel 0458-17-9210, thence in a northwesterly direction approximately 400 feet along the eastern right-of-way margin of Underwood Road to a point in the southern boundary of parcel 0458-17-5864, thence northwesterly along said southern boundary approximately 239 feet to the southwest

corner of said parcel, thence northwesterly approximately 30 feet along the southern boundary of parcel 0458-18-8142, said point being the southeast corner of parcel 0458-18-6724, thence along said parcel in a northwesterly direction approximately 30 feet to the southeast corner of parcel 0458-18-0200, thence in a northwesterly direction along the southern boundary of said parcel approximately 830 feet to the southwest boundary of said parcel, thence in a northeasterly direction approximately 119 feet to the southwest corner of parcel 0458-08-7481, thence in a northeasterly direction approximately 119 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 21 feet along the western boundary of parcel 0458-18-0200 to the southwestern corner of parcel 0458-08-9513, thence with the western boundary of said parcel approximately 164 feet to the southwestern corner of parcel 0458-18-0614, thence in a northeasterly direction approximately 308 feet to the western corner of parcel 0458-18-1918, thence in a northeasterly direction approximately 208 feet to the western corner of parcel 0458-19-3007, thence along said boundary in northeasterly direction approximately 174 feet to the western corner of parcel 0458-19-4211, thence along said boundary in a northeasterly direction approximately 176 feet to the western corner of parcel 0458-19-5325, thence along said boundary in a northeasterly direction approximately 183 feet to northern corner of said parcel, thence in a southeasterly direction approximately 393 feet along the boundary of said parcel to the northwest corner of parcel 0458-18-6724, thence in a southeasterly direction approximately 644 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-2631, thence in a southeasterly direction approximately 304 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-7262, thence in a southeasterly direction approximately1564 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-7729, thence in an easterly direction approximately 367 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-9855, thence in an easterly direction approximately 118 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-0876, thence in an easterly direction approximately 121 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-2849, thence in an easterly direction approximately 156 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-3986, thence in an easterly direction approximately 147 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-4996, thence in an easterly direction approximately 104 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-6948, thence in an easterly direction approximately 200 feet along the boundary of said parcel to the northwest corner of parcel 0458-48-8091, thence in an easterly direction approximately 329 feet along the boundary of said parcel to the northwest corner of parcel 0458-58-2068, thence in an easterly direction approximately 113 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4234, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4487**,** thence in a northeasterly direction approximately 269 feet along the boundary of said parcel to the southeast corner of parcel 0458-58-3635, thence in a westerly direction approximately 291 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 146 feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 320 feet along the boundary of said parcel to the western boundary of parcel 0458-58-5675, thence in a northeasterly direction approximately 178 feet along the boundary of said parcel to the northern corner of said

parcel, thence in a southeasterly direction approximately 130 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 1661 feet along the western right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 0459-60-2553, thence in a northwesterly direction approximately 593 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 641 feet along the boundary of said parcel to the southwest corner of parcel 0459-60-6819, thence in a northeasterly direction approximately 364 feet along the boundary of said parcel to the southwest corner of parcel 0459-61-7116, thence in a northwesterly direction approximately 200 feet along the boundary of said parcel to the corner of parcel 0459-61-4382, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 213 feet along the boundary of said parcel to the corner of said parcel, thence in a northwesterly direction approximately 136 feet along the boundary of said parcel to the corner of said parcel, thence in a northeasterly direction approximately 449 feet along the boundary of said parcel to the right-of-way of Tucker Rd., thence in a northwesterly direction approximately 34 feet along the right-of-way of Tucker Rd. to the eastern corner of parcel 0459-61-2476, thence in a southwesterly direction approximately 500 feet to the corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the corner of said parcel, thence in a northeasterly direction approximately 350 feet to a point in said parcel, thence in a northwesterly direction approximately 255 feet along the boundary of said parcel to a point in the southern boundary of parcel 0459-51-9893, thence in a northwesterly direction approximately 383 feet to the southwest corner of parcel 0459-51-7999, thence in a northwesterly direction approximately 525 feet to the northernmost corner of parcel 0459-52-9250, thence in a southeasterly direction approximately 375 feet to the easternmost corner of parcel 0459-62-1078, thence in a southwesterly direction approximately 215 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-2903, thence in a southeasterly direction approximately 59 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-3815, thence in a southeasterly direction approximately 211 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-4764, thence in a southeasterly direction approximately 170 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-5684, thence in a southeasterly direction approximately 134 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-8416, thence in a southeasterly direction approximately 417 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 180 feet along the right-of-way of Dobbin Holmes Rd., thence in a southeasterly direction approximately 70 feet across the right-of-way of Dobbin Holmes Rd. to the northern corner of parcel 0459-71-1354, thence in a southeasterly direction approximately 154 feet along the boundary of said parcel to the northern corner of parcel 0459-71-2394, thence in a southeasterly direction approximately 149 feet along the boundary of said parcel to the eastern corner of said parcel, thence in a southwesterly direction approximately 207 feet along the boundary of said parcel to the southeast corner of parcel 0459-71-1354, thence in a southwesterly direction approximately 222 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 210 feet to a corner of said parcel, thence in a northwesterly direction approximately 51 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a southwesterly

direction approximately 493 feet along the right-of-way of Dobbin Holmes Rd. to the northwest corner of parcel 0459-70-0727**,** thence in an easterly direction approximately 149 feet along the boundary of said parcel to a corner of said parcel, thence in a southeasterly direction approximately 301 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southwesterly direction approximately 280 feet along the boundary of said parcel to the northeast corner of parcel 0459-60-8680, thence in a southwesterly direction approximately 208 feet along the boundary of said parcel to the southernmost corner of said parcel, thence in a northwesterly direction approximately 422 feet to the eastern right-of-way margin of Dobbin Holmes Road, thence in a southwesterly direction approximately 20 feet to the northwest corner of parcel 0459-60-8334, thence in a southeasterly direction approximately 422 feet to a corner of said parcel, thence in a southwesterly direction approximately 41 feet to another corner in said parcel, thence in a southeasterly direction approximately 178 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 172 feet along the boundary of said parcel to the boundary of parcel 0458-69-8904, thence in a southwesterly direction approximately 558 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 430 feet along the boundary of said parcel to a corner of parcel 0458-69-5648, thence in a southwesterly direction approximately 283 feet along the boundary of said parcel to a corner of parcel 0458-69-3435, thence in a southwesterly direction approximately 475 feet along the boundary of said parcel to the northeast corner of parcel 0458-69-0031, thence in a southeasterly direction approximately 81 feet along the boundary of said parcel to the northeast corner of parcel 0458-68-0650, thence in a southeasterly direction approximately 702 feet along the boundary of said parcel to the boundary of parcel 0458-67-4970, thence in a northeasterly direction approximately 887 feet along the boundary of said parcel to the northwest corner of parcel 0458-78-8007, thence in a northeasterly direction approximately 506 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-1069, thence in a northeasterly direction approximately 110 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-2272, thence in a northeasterly direction approximately 220 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-3386, thence in a northeasterly direction approximately 120 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-5316, thence in a northeasterly direction approximately 108 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-7543, thence in a northeasterly direction approximately 448 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 105 feet along the boundary of said parcel to the northwest corner of parcel 0458-98-1966, thence in a northeasterly direction approximately 700 feet along the boundary of said parcel to the northwest corner of parcel 0458-99-7126, thence in a northeasterly direction approximately 377 feet along the boundary of said parcel to the northwest corner of parcel 0458-99-6696, thence in a northeasterly direction approximately 210 feet along the boundary of said parcel to the right-of-way of Tom Geddie Rd., thence in a northeasterly direction approximately 1169 feet along the right-of-way of Tom Geddie Rd. to the southwest corner of parcel 0469-01-1665, thence in a northwesterly direction approximately 1454 feet along the boundary of said parcel to the western corner of said parcel, thence in a northeasterly direction approximately 1707 feet along the boundary of said parcel to the southern boundary of parcel 0469-02-2922, thence in a northwesterly direction approximately 254 feet along the boundary of said parcel to the southeast corner of

parcel 0469-93-9138, thence in a northwesterly direction approximately 181 feet along the boundary of said parcel to a corner of parcel 0459-83-5047, thence in a southwesterly direction approximately 1297 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 939 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 168 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 129 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 530 feet along the boundary of said parcel and the right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 0459-73-7444, thence in a westerly direction approximately 65 feet to the western right-of-way of Dobbin Holmes Rd., thence in a northerly direction approximately 460 feet along the right-of-way of Dobbin Holmes Rd. to the southeast corner of parcel 0459-73-2816, thence in a westerly direction approximately 28 feet along the boundary of said parcel to the eastern corner of parcel 0459-73-2699, thence in a southwesterly direction approximately 106 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the boundary of parcel 0459-73-2816, thence in a southwesterly direction approximately 63 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 332 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 65 feet to the eastern right-of-way of Dobbin Holmes Rd. and the boundary of parcel 0459-74-4336, thence in a northwesterly direction approximately 407 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northwesterly direction approximately 480 feet along the right-of-way of Dobbin Holmes Rd. to the northern corner of parcel 0459-64-6403, thence in a southeasterly direction approximately 475 feet along the boundary of said parcel to a point in parcel 0459-74-4336, thence in a southeasterly direction approximately 462 feet along the boundary of said parcel to the northern corner of parcel 0459-74-6101, thence in a southeasterly direction approximately 148 feet along the boundary of said parcel to the right-of-way of Laurent Dr., thence in a southeasterly direction approximately 65 feet to the right-of-way of Laurent Dr. and northern corner of parcel 0459-83-0996, thence in a southeasterly direction approximately 697 feet along the boundary of said parcel to the northern corner of parcel 0459-83-5047, thence in a southeasterly direction approximately 162 feet along the boundary of said parcel to the southwestern corner of parcel 0459-93-2912, thence in a northeasterly direction approximately 214 feet along the boundary of said parcel to the southwestern corner of parcel 0459-94-3379, thence in a northeasterly direction approximately 1393 feet along the boundary of said parcel to the right-of-way of Tom Geddie Rd., in a northeasterly direction approximately 113 feet along the right-of-way of Tom Geddie Rd. to the southeast corner of parcel 0459-95-6631, thence in a northwesterly direction approximately 300 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 154 feet along the boundary of said parcel to a corner of said parcel, thence northwesterly approximately 80 feet to a point in said parcel, thence in a northeasterly direction approximately 547 feet along the boundary of said parcel to the boundary of parcel 0459-96-8053, thence in a northwesterly direction approximately 133 feet along the boundary of said parcel to a corner of said parcel, thence in a

northeasterly direction approximately 208 feet along the boundary of said parcel to the boundary of parcel 0459-96-8329, thence in a northwesterly direction approximately 425 feet along the boundary of said parcel to the railroad right-of-way, thence in a southwesterly direction approximately 1052 feet along the railroad right-of-way, thence in a northwesterly direction approximately 110 feet to the railroad right-of-way and a corner of parcel 0459-86-8451, thence in a northwesterly direction approximately 288 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 376 feet along the boundary of said parcel to the southeastern corner of parcel 0459-86-5839, thence in a northwesterly direction approximately 284 feet along the boundary of said parcel to the southeastern corner of parcel 0459-87-1080, thence in a northwesterly direction approximately 581 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-8310, thence in a northwesterly direction approximately 212 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-4069, thence in a southwesterly direction approximately 356 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 237 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 78 feet to the western right-of-way of Dobbin Holmes Rd. and the southern corner of parcel 0459-77-1357, thence in a northwesterly direction approximately 497 feet along the boundary of said parcel to the corner of said parcel and the right-of-way of Beard Rd., thence in a southeasterly direction approximately 205 feet along the boundary of said parcel and the right-of-way of Beard Rd., thence in a northeasterly direction approximately 164 feet to the corner of parcel 0459-77-4377 and the right-of-way, thence in a northeasterly direction approximately 70 feet to the northern right-of-way of Beard Rd., thence in a northeasterly direction approximately 117 feet along the right-of-way of Beard Rd. and the corner of parcel 0459-77-6701, thence in a northerly direction approximately 50 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 296 feet along the boundary of said parcel to the boundary of parcel 0459-78-5698, thence in a northwesterly direction approximately 841 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a northeasterly direction approximately 741 feet along the boundary of said parcel to the northwestern corner of said parcel 0459-88-1422, thence in a southeasterly direction approximately 570 feet along the boundary of said parcel to the northeastern corner of said parcel, thence in a southeasterly direction approximately 444 feet along the boundary of said parcel to the northeastern corner of parcel 0459-88-3120, thence in a southeasterly direction approximately 381 feet along the boundary of said parcel to the northern corner of parcel 0459-87-5822, thence in a southeasterly direction approximately 714 feet along the boundary of said parcel to the right-of-way of Beard Rd., thence in a southeasterly direction approximately 443 feet along the right-of-way of Beard Rd. to the southwest corner of parcel 0459-97-2635, thence in a northeasterly direction approximately 432 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 156 feet along the boundary of said parcel to the western boundary of parcel 0459-98-5036, thence in a northwesterly direction approximately 568 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 153 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 842 feet along the boundary of said parcel to a corner of said parcel and the right-of-way of Coleman Rd., thence in a southerly direction approximately 156 feet

along the boundary of said parcel to the northeast corner of parcel 0459-98-7545, thence in a southeasterly direction approximately 102 feet along the boundary of said parcel to the northeast corner of parcel 0499-98-7454, thence in a southeasterly direction approximately 98 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-7364, thence in a southeasterly direction approximately 98 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-7293, thence in a southeasterly direction approximately 111 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-8132, thence in a southeasterly direction approximately 113 feet along the boundary of said parcel to the northeast corner of parcel 0459-98-8071, thence in a southeasterly direction approximately 114 feet along the boundary of said parcel to the northeast corner of parcel 0459-97-9828, thence in a southeasterly direction approximately 84 feet along the boundary of said parcel, thence in a northeasterly direction approximately 60 feet to the northwest corner of parcel 0469-07-5943, thence in a northeasterly direction approximately 1225 feet along the boundary of said parcel to a corner of said parcel, thence in a southerly direction approximately 65 feet along the boundary of said parcel to the northern corner of parcel 0469-18-0147, thence in a southerly direction approximately 81 feet along the boundary of said parcel to the northwestern railroad right-of-way, thence in a southerly direction approximately 205 feet to the southeastern railroad right-of-way, thence in a southwesterly direction approximately 1020 feet along the railroad right-of-way to the northeast corner of parcel 0469-07-4174, thence in a southeasterly direction approximately 462 feet along the boundary of said parcel to the eastern corner of said parcel, thence in a southwesterly direction approximately 332 feet along the boundary of said parcel to the right-of-way of Coleman Rd., thence in a southeasterly direction approximately 265 feet along the right-of-way of Coleman Rd. to the right-of-way of Beard Rd., thence in a southeasterly direction approximately 650 feet along the right-of-way of Beard Rd. to the southwestern corner of parcel 0469-16-3544, thence in a northwesterly direction approximately 275 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a northeasterly direction approximately 606 feet along the boundary of said parcel to the northern corner of parcel 0469-16-6403, thence in a southeasterly direction approximately 278 feet along the boundary of said parcel to the northern corner of parcel 0469-16-7292, thence in a southeasterly direction approximately 618 feet along the boundary of said parcel to the right-of-way of Beard Rd., thence in a southeasterly direction approximately 110 feet along the right-of-way of Beard Rd. to the western corner of parcel 0469-25-3897, thence in a northeasterly direction approximately 364 feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 206 feet along the boundary of said parcel to a point in the boundary of parcel 0469-25-6892, thence in a northeasterly direction approximately 180 feet along the boundary of said parcel to the western corner of parcel 0469-36-8078, thence in a northeasterly direction approximately 1590 feet along the boundary of said parcel to the western corner of parcel 0469-56-4319, thence in a northeasterly direction approximately 1590 feet along the boundary of said parcel to the western corner of Meadowview Subdivision, thence in a northeasterly direction approximately 3550 feet along the boundary of said subdivision to the western corner of parcel 0469-78-3227, thence in a northeasterly direction approximately 919 feet along the boundary of said parcel to the western corner of parcel 0469-89-0270, thence in a northeasterly direction approximately 1025 feet along the boundary of said parcel, thence in a northerly direction approximately 763 feet along the boundary of said parcel to the boundary of

parcel 0560-80-7287, thence in a northwesterly direction approximately 2182 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 1480 feet to the northwestern corner of parcel 0560-82-9682, thence in a northeasterly direction approximately 947 feet along the boundary of said parcel to the northwestern corner of parcel 0570-02-4348, thence in a northeasterly direction approximately 955 feet along the boundary of said parcel to the northernmost corner of said parcel, thence in a southeasterly direction approximately 4045 feet to the northernmost corner of parcel 0570-21-2560, thence in a southeasterly direction approximately 215 feet to the western right-of-way of Dunn Rd., thence in a northeasterly direction approximately 560 feet along the western right-of-way of Dunn Rd., thence in a southeasterly direction to the northernmost corner of parcel 0570-30-2981, thence in a southeasterly direction approximately 1624 feet along the boundary of said parcel to the western right-of-way of Interstate 95, thence in a southeasterly direction approximately 650 feet to the eastern right-of-way of Interstate 95 and the northernmost corner of parcel 0570-40-5214, thence in a southeasterly direction approximately 73 feet along the boundary of said parcel, thence in a southwesterly direction approximately 291 feet along the boundary of said parcel, thence in a southeasterly direction approximately 203 feet along the boundary of said parcel, thence in a southwesterly direction approximately 67 feet along the boundary of said parcel to the northwest corner of parcel 0479-49-9992, thence in an easterly direction approximately 262 feet to the northeast corner of said parcel, thence in a southerly direction approximately 460 feet to the northern right-of-way of Goldsboro Rd., thence in an easterly direction approximately 500 feet along the northern right-of-way of Goldsboro Rd., thence in a southerly direction to the northeast corner of parcel 0479-59-2160, thence in a southerly direction approximately 355 feet along the boundary of said parcel, thence in a southwesterly direction approximately 740 feet along the boundary of said parcel to the boundary of parcel 0479-39-4024, thence in a southeasterly direction approximately 863 feet along the boundary of said parcel, thence in a southwesterly direction approximately 482 feet along the boundary of said parcel, thence in a southwesterly direction approximately 813 feet along the boundary of said parcel to the easternmost corner of parcel 0479-28-8759, thence in a southwesterly direction approximately 1558 feet along the boundary of said parcel to the northeast corner of parcel 0479-27-7508, thence in a southwesterly direction approximately 850 feet along the boundary of said parcel to the northeast corner of parcel 0479-26-2506, thence in a southwesterly direction approximately 1600 feet along the boundary of said parcel to the boundary of parcel 0479-15-5432, thence in a southeasterly direction approximately 345 feet along the boundary of said parcel, thence in a southwesterly direction approximately 370 feet along the boundary of said parcel, thence in a northeasterly direction approximately 2370 feet along the boundary of said parcel to the southeast corner of parcel 0479-05-2675, thence in a westerly direction approximately 82 feet along the boundary of said parcel, thence in a northwesterly direction approximately 348 feet to the eastern right-of-way of Interstate 95, thence in a southwesterly direction approximately 5090 feet to the northwest corner of parcel 0469-70-4794, thence in a southeasterly direction approximately 320 feet along the boundary of said parcel to the northwest corner of parcel 0469-70-7745, thence in a southeasterly direction approximately 156 feet along the boundary of said parcel to the north corner of parcel 0469-70-7600, thence in a northeasterly direction approximately 49 feet along the boundary of parcel 0468-89-3963, thence in an easterly direction approximately 877 feet along the boundary of said parcel to the northwest corner of parcel 0469-80-9779, thence in an easterly direction approximately 390 feet along the

boundary of said parcel to the western right-of-way of Leanna Dr., thence approximately 30 feet to the eastern right-of-way of Leanna Dr. to the northwest corner of parcel 0469-90-2498, thence in an easterly direction approximately 208 feet along the boundary of said parcel to the northwest corner of parcel 0469-90-7574, thence in an easterly direction approximately 745 feet along the boundary of said parcel to the northwest corner of parcel 0479-00-4512, thence in an easterly direction approximately 426 feet along the boundary of said parcel to the northwest corner of parcel 0479-10-1661, thence in an easterly direction approximately 1068 feet along the boundary of said parcel to the northwest corner of parcel 0479-10-9670, thence in an easterly direction approximately 536 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 417 feet along the boundary of said parcel to the northwest corner of parcel 0479-20-5024, thence in an easterly direction approximately 220 feet along the boundary of said parcel to the northwest corner of parcel 0479-20-8250, thence in an easterly direction approximately 471 feet along the boundary of said parcel to the northwest corner of parcel 0479-30-4316, thence in an easterly direction approximately 668 feet along the boundary of said parcel to the northwest corner of parcel 0479-90-8305, thence in an easterly direction approximately 199 feet along the boundary of said parcel to the northwest corner of parcel 0479-30-9378, thence in an easterly direction approximately 170 feet along the boundary of said parcel to the northwest corner of parcel 0479-40-1435, thence in an easterly direction approximately 268 feet along the boundary of said parcel to the western right-of-way of James Dail Rd., thence in a northeasterly direction approximately 138 feet along the western right-of-way of James Dail Rd. to the southwest corner of parcel 0479-41-2073, thence in a northwesterly direction approximately 1446 feet along the boundary of said parcel to a corner of parcel 0479-41-1791, thence in a northwesterly direction approximately 500 feet along the boundary of said parcel, thence in a northeasterly direction approximately 273 feet along the boundary of said parcel, thence in a southeasterly direction approximately 595 feet along the boundary of said parcel to the southwest corner of parcel 0479-42-5169 thence in a northeasterly direction approximately 570 feet along the boundary of said parcel to the right-of-way of Boykin Rd., thence in a westerly direction approximately 20 feet to the northeast corner of parcel 0479-42-2203, thence in a southwesterly direction approximately 501 feet along the boundary of said parcel, thence in a northwesterly direction approximately 375 feet along the boundary of said parcel to the southeast corner of parcel 0479-42-1845, thence in a northwesterly direction approximately 497 feet along the boundary of said parcel to the southeast corner of parcel 0479-32-6417, thence in a northwesterly direction approximately 109 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 105 feet along the boundary of said parcel to the southwest corner of parcel 0479-32-6672, thence in a northeasterly direction approximately 220 feet along the boundary of said parcel to the southwest corner of parcel 0479-32-7861, thence in a northeasterly direction approximately 209 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 209 feet to the western boundary line of parcel 0479-42-1845, thence in a northeasterly direction approximately 244 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 487 feet to the northeast corner of said parcel, thence in a southwesterly direction approximately 410 feet to the northern right-of-way of Boykin Rd., thence in an easterly direction approximately 905 feet along the northern right-of-way of Boykin Rd. to the southwest corner of parcel

0479-53-7215, thence in a northeasterly direction approximately 1316 feet along the boundary of said parcel to the southwest corner of parcel 0479-53-7984, thence in a northeasterly direction approximately 205 feet along the boundary of said parcel to the southwest corner of parcel 0479-64-0165, thence in a northeasterly direction approximately 86 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-6205, thence in a northwesterly direction approximately 379 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-4422, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-3425, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-2426, thence in a northwesterly direction approximately 104 feet along the boundary of said parcel to the southeast corner of parcel 0479-54-0459, thence in a northwesterly direction approximately 288 feet along the boundary of said parcel to the southeast corner of parcel 0479-44-8552, thence in a northwesterly direction approximately 156 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 134 feet along the boundary of said parcel to the southwest corner of parcel 0479-44-9627, thence in a northeasterly direction approximately 278 feet along the boundary of said parcel to the southwest corner of parcel 0479-54-1894, thence in a northeasterly direction approximately 376 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 210 feet along the boundary of said parcel to the northwest corner of parcel 0479-54-6739, thence in a southeasterly direction approximately 712 feet along the boundary of said parcel to the western boundary of parcel 0479-64-4873, thence in a northeasterly direction approximately 505 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a southeasterly direction approximately 708 feet to the northwest corner of parcel 0479-64-8888, thence in a southeasterly direction approximately 90 feet along the boundary of said parcel to the western right-of-way of James Dail Rd., thence in a southwesterly direction approximately 242 feet along the boundary of said parcel and the western right-of-way of James Dail Rd., thence in a southeasterly direction approximately 60 feet across James Dail Rd. to the northwest corner of parcel 0479-74-0616, thence in a southeasterly direction approximately 219 feet along the boundary of said parcel, thence in a southwesterly direction approximately 204 feet to the southeast corner of said parcel and the northern boundary of parcel 0479-74-0428, thence in a southeasterly direction approximately 210 feet along the boundary of said parcel to the northwest corner of parcel 0479-74-2280, thence in a southeasterly direction approximately 261 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southwesterly direction approximately 436 feet along the boundary of said parcel, thence in a northwesterly direction approximately 265 feet along the boundary of said parcel to the southeast corner of parcel 0479-64-8176, thence in a northwesterly direction approximately 136 feet along the boundary of said parcel to the northeast corner of parcel 0479-64-7170, thence in a southwesterly direction approximately 125 feet along the boundary of said parcel to the southeast corner of said parcel, thence in a northwesterly direction approximately 145 feet along the boundary of said parcel to the northeast corner of parcel 0479-64-6053, thence in a southwesterly direction approximately 98 feet to the northeast corner of parcel 0479-63-6904, thence in a southwesterly direction approximately 69 feet along the boundary of said parcel to the northwest corner of parcel 0479-63-7649, thence in a southeasterly direction approximately 277 feet along the boundary of said parcel to the northeast corner of said

parcel, thence in a southwesterly direction approximately 198 feet along the boundary of said parcel to the northern corner of parcel 0479-63-8499, thence in a southeasterly direction approximately 226 feet along the boundary of said parcel to the eastern corner of said parcel, thence in a southwesterly direction approximately 157 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 482 feet along the boundary of said parcel to the northeast corner of parcel 0479-63-3583, thence in a southwesterly direction approximately 159 feet along the boundary of said parcel to a corner in parcel 0479-63-3317, thence in a southeasterly direction approximately 20 feet to the northeast corner of said parcel, thence in a southwesterly direction approximately 214 feet along the boundary of said parcel to the southeast corner of said parcel, thence in a northwesterly direction approximately 230 feet along the boundary of said parcel to the southwest corner of said parcel and the eastern right-of-way of James Dail Rd., thence in a northwesterly direction approximately 60 feet to the western right-of-way of James Dail Rd., thence in a southwesterly direction approximately 696 feet along the western right-of-way of James Dail Rd., thence in an easterly direction approximately 60 feet to the eastern right-of-way of James Dail Rd., thence in a southeasterly direction approximately 130 feet to the northern corner of parcel 0479-52-8418 and the southern right-of-way of J Herbert Rd., thence in a southeasterly direction approximately 2405 feet along the southern right-of-way of J Herbert Rd. and the boundary of parcels 0479-52-8418, 0479-62-2381, 0479-61-9264, 0479-61-8121, thence in a southwesterly direction approximately 2905 feet along the northern right-of-way of J. Herbert Rd. and the boundary of parcels 0479-60-8775, 0479-60-8506, 0479-60-7458, 0479-60-6369, 0479-60-4378, 0479-60-3253, 0479-60-0321, 0479-50-3030, 0478-49-8928, thence in a southwesterly direction approximately 1256 feet along the western right-of-way of J Herbert Rd. and the boundary of parcels 0478-49-4568, 0478-49-2195, 0478-49-1065, 0478-48-0974, 0478-38-9809, 0478-38-8673, thence in a southwesterly direction approximately 72 feet along the boundary of parcel 0478-38-8673, thence in a northwesterly direction approximately 140 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-6661, thence in a northwesterly direction approximately 95 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-5792, thence in a westerly direction approximately 36 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-4651, thence in a southwesterly direction approximately 260 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-2599, thence in a southwesterly direction approximately 64 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-1562, thence in a southwesterly direction approximately 197 feet along the boundary of said parcel to the southeast corner of parcel 0478-38-0549, thence in a southwesterly direction approximately 57 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-8578, thence in a southwesterly direction approximately 212 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-7511, thence in a southwesterly direction approximately 165 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-5560, thence in a southwesterly direction approximately 152 feet along the boundary of said parcel to the southeast corner of parcel 0478-28-1487, thence in a southwesterly direction approximately 603 feet along the boundary of said parcel to the southeast corner of parcel 0478-18-8446, thence in a southwesterly direction approximately 24 feet along the boundary of said parcel to the southeast corner of parcel 0478-18-7683, thence in a southwesterly direction approximately 58 feet along the boundary of said parcel to the southeast

corner of parcel 0478-18-0589, thence in a southwesterly direction approximately 180 feet along the boundary of said parcel, thence in a southeasterly direction approximately 60 feet across the right-of-way of Draughon Rd. to the northeast corner of parcel 0478-18-4068, thence in a southeasterly direction approximately 165 feet along the boundary of said parcel to the southeast corner of said parcel, thence in a northeasterly direction approximately 169 feet along the boundary of parcel 0478-17-6708, thence in a southeasterly direction approximately 482 feet along the boundary of said parcel to the northeast corner of parcel 0478-17-8377, thence in a southeasterly direction approximately 279 feet along the boundary of said parcel to the northeast corner of parcel 0478-27-0134, thence in a southeasterly direction approximately 211 feet along the boundary of said parcel to the northeast corner of parcel 047-27-1042, thence in a southeasterly direction approximately 292 feet along the boundary of said parcel to the right-of-way of Clovelly St., thence in a southeasterly direction approximately 70 feet along the right-of-way of Clovelly St. to the northeast corner of parcel 0478-26-2714, thence in a southeasterly direction approximately 158 feet along the boundary of said parcel to the northeast corner of parcel 0478-26-2409, thence in a southeasterly direction approximately 357 feet along the boundary of said parcel to the northeast corner of parcel 0478-26-2195, thence in a southeasterly direction approximately 304 feet along the boundary of said parcel to the northeast corner of parcel 0478-25-3828, thence in a southeasterly direction approximately 277 feet along the boundary of said parcel to the northeast corner of parcel 0478-25-3672, thence in a southeasterly direction approximately 238 feet along the boundary of said parcel to the northeast corner of parcel 0478-25-6422, thence in a southeasterly direction approximately 255 feet along the boundary of said parcel to the northeast corner of parcel 0478-24-6977, thence in a southeasterly direction approximately 158 feet along the boundary of said parcel to the northwest corner of parcel 0478-25-9151, thence in a northeasterly direction approximately 308 feet along the boundary of said parcel, thence in a southeasterly direction approximately 179 feet along the boundary of said parcel, thence in a northeasterly direction approximately 710 feet along the boundary of said parcel, thence in a southeasterly direction approximately 20 feet along the boundary of said parcel to the northeast corner of parcel 0478-34-1914, thence in a southeasterly direction approximately 23 feet along the boundary of said parcel to the northeast corner of parcel 0478-34-8800, thence in a southeasterly direction approximately 674 feet along the boundary of said parcel, thence in a southwesterly direction approximately 129 feet along the boundary of said parcel to the southeast corner of parcel 0478-34-3771, thence in a southwesterly direction approximately 20 feet along the boundary of said parcel to the southeast corner of parcel 0478-34-2438, thence in a southwesterly direction approximately 20 feet along the boundary of said parcel to the southeast corner of parcel 0478-34-7349, thence in a southwesterly direction approximately 494 feet along the boundary of said parcel to the southwest corner of parcel 0478-34-2364, thence in a southwesterly direction approximately 449 feet along the boundary of said parcel, thence in a northwesterly direction approximately 210 feet along the boundary of said parcel to the northwest corner of parcel 0478-34-2364, thence in a northwesterly direction approximately 60 feet along the boundary of said parcel to the southeast corner of parcel 0478-24-7577, thence in a southwesterly direction approximately 348 feet along the boundary of said parcel to the southeast corner of parcel 0478-24-4407, thence in a southwesterly direction approximately 430 feet along the boundary of said parcel, thence in a northwesterly direction approximately 460 feet along the boundary of said parcel to the southeast corner of

parcel 0478-14-9752, thence in a southwesterly direction approximately 320 feet along the boundary of said parcel to the southeast corner of parcel 0478-14-7626, thence in a southwesterly direction approximately 160 feet along the boundary of said parcel to the southeast corner of parcel 0478-14-4670, thence in a southwesterly direction approximately 370 feet along the boundary of said parcel to the southeast corner of parcel 0478-14-2415, thence in a southwesterly direction approximately 247 feet along the boundary of said parcel to the eastern right-of-way of Baywood Rd., thence in a southwesterly direction approximately 70 feet across Baywood Rd. to the northeast corner of parcel 0478-04-7401, thence in a southwesterly direction approximately 139 feet to the northeast corner of parcel 0468-93-8406, thence in a southwesterly direction approximately 275 feet to the northeast corner of parcel 0478-03-7970, thence in a southwesterly direction approximately 165 feet to the northeast corner of parcel 0478-03-7716, thence in a southwesterly direction approximately 426 feet to a corner of parcel 0478-03-4412, thence in a southwesterly direction approximately 249 feet to a corner of parcel 0478-03-2191, thence in a southwesterly direction approximately 328 feet to the northeast corner of parcel 0478-02-2827, thence in a southwesterly direction approximately 180 feet to the northeast corner of parcel 0478-92-9698, thence in a southwesterly direction approximately 180 feet to the northeast corner of parcel 0478-02-0594, thence in a southwesterly direction approximately 458 feet along the eastern boundary of parcel 0478-02-0310 to the northern right-of-way of Murphy Rd., thence along said right-of-way in a southwesterly direction approximately 74 feet to a point in the southern boundary of said parcel, said point being in the northern right-of-way margin of Murphy Road, thence in a northeasterly direction along the southern boundary of said parcel approximately 227 feet to the southwestern corner of said parcel, thence in a northerly direction approximately 10 feet to the southeastern corner of parcel 0468-93-8406, thence along the southern boundary of said parcel in a northwesterly direction approximately 204 feet to the southwestern corner of said parcel, thence in a southeasterly direction approximately 60 feet crossing Murphy Road to a point being in the southern right-of-way margin of Murphy Road, said point being the northeastern corner of parcel 0468-92-3192, thence in a southwestern direction approximately 290 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a northwesterly direction approximately 285 feet to the southwestern corner of said parcel, thence in a northeasterly direction approximately 263 feet to a point in the southern right-of-way margin of Murphy Road, thence along said margin approximately 90 feet to the northeastern corner of parcel 0468-92-0292, thence along the eastern boundary of said parcel in a southwesterly direction approximately 264 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a northwesterly direction approximately 171 feet to the southeastern corner of parcel 0468-82-9238, thence along said southern boundary in northwesterly direction approximately 170 feet to the southeastern corner of parcel 0468-82-7373, thence along said southern boundary in a northwesterly direction approximately 170 feet to the southeastern corner of parcel 0468-82-6318, thence along said southern boundary in a northwesterly direction approximately 170 feet to the southwestern corner of said parcel, thence along the western boundary of said parcel in a northeasterly direction approximately 250 feet to a point in the southern right-of-way margin of Murphy Road, thence along said margin in a northwesterly direction approximately 198 feet to the northeast corner of parcel 0468-82-2660, thence in a southwesterly direction along the eastern boundary of said parcel approximately 165 feet to the southern corner of said parcel, thence in a northwesterly direction

approximately 155 feet to the northwestern corner of said parcel said corner being in the southern right-of-way margin of Murphy Road, thence in northwesterly direction approximately 110 feet to the eastern corner of parcel 0468-72-9720, thence along the eastern boundary of said parcel in a southwesterly direction approximately 258 feet to the southern corner of said parcel, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-72-8801, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-72-6973, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-73-5054, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-73-4137, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southern corner of parcel 0468-73-3209, thence in a northwesterly direction along the southern boundary of said parcel approximately 170 feet to the southeastern corner of parcel 0468-73-1358, thence along the southern boundary of said parcel in a southwesterly direction approximately 90 feet to the southwest corner of said parcel, thence with the western boundary of said parcel approximately 214 feet to the southeast corner of parcel 0468-63-8638, thence continuing along the southern boundary of said parcel in a northwesterly direction approximately 377 feet to the southwestern corner of said parcel, thence northerly along the western boundary of said parcel approximately 343 feet to the southern right-of-way margin of Murphy Road, thence with the margin of Murphy Road in a northwesterly direction approximately 22 feet to the northeastern corner of parcel 0468-63-4686, thence along the eastern boundary of said parcel in a southwesterly direction approximately 937 feet to the southeastern corner of said parcel, thence with the southern boundary of said parcel in a northwesterly direction approximately 78 feet to the southeastern corner of parcel 0468-63-3793, thence with southern boundary of said parcel in a northwesterly direction approximately 80 feet to the southeastern corner of parcel 0468-63-2789, thence with southern boundary of said parcel in a northwesterly direction approximately 105 feet to the southeastern corner of parcel 0468-63-1874, thence along the southern boundary of said parcel in a northwesterly direction approximately 140 feet to the southeastern corner of parcel 0468-63-0951, thence along the southern boundary of said parcel in a northwesterly direction approximately 151 feet to the southeastern boundary of parcel 0468-53-8949, thence continuing along the southern boundary of said parcel in a northwesterly direction approximately 327 feet to the southeastern corner of parcel 0468-54-6056, thence northwesterly along the boundary of said parcel approximately 419 feet to the southeastern corner of parcel 0468-54-3373, thence along the southern boundary of said parcel in a northwesterly direction approximately 442 feet to the eastern margin of Creek Bottom Trail, thence crossing Creek Bottom Trail in a northwesterly direction approximately 75 feet to the southeastern corner of parcel 0468-44-9465, thence along the southern boundary of said parcel approximately 360 feet to the southwestern corner of said parcel, thence along the western boundary of said parcel in a northeasterly direction approximately 115 feet to the southern right-of-way margin of Murphy Road, thence along the said margin in a northwesterly direction approximately 123 feet to the northeastern corner of parcel 0468-44-5545, thence along the eastern boundary of said parcel in a southwesterly direction approximately 209 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a northwesterly direction approximately 80 feet to the southwestern corner of said parcel, thence along the western boundary in a

northeasterly direction approximately 160 feet to the eastern right-of-way of Sanderosa Road where it intersects with Murphy Road, thence along the eastern right-of-way of Sanderosa Road and the western boundary of parcel 0468-53-6023 in a southwesterly direction approximately 173 feet, thence continuing with the western boundary of said parcel in a southwesterly direction approximately 205 feet to the northwestern corner parcel of 0468-44-1177 said point also being in the eastern right-of-way margin of Sanderosa Road, thence along the western boundary of said parcel in a southwesterly direction approximately 567 feet to a point the eastern right-of-way margin of Sanderosa Road, thence continuing along the margin in a southwesterly direction approximately 101 feet to the northeast corner of parcel 0468-43-2118, thence along the western boundary of said parcel in a southwesterly direction approximately 400 feet, thence in a southwesterly direction crossing Sanderosa Road to the northern corner of parcel 0468-32-3840, thence along the western boundary of said parcel in a southwesterly direction, also being the eastern right-of-way margin of I-95 North, approximately 660 feet to the northern corner of parcel 0468-32-0243, thence with the western boundary of said parcel in a southwesterly direction approximately 1167 feet to the northwestern corner of parcel 0468-21-9783, thence along the western boundary of said parcel and continuing with the eastern right-of-way margin of I-95 North in a southwesterly direction approximately 360 feet to the northwestern corner of parcel 0468-31-2414, thence with the western boundary of said parcel in a southwesterly direction approximately 401 feet to the northwestern corner of parcel 0468-31-2137, thence with the western boundary of said parcel also being the eastern right-of-way margin of I-95 North in a southwesterly direction approximately 310 feet to the northeastern corner of parcel 0468-31-5006, thence along the western boundary of said parcel in a southwesterly direction approximately 137 feet to a point in the eastern right-of-way margin of I-95 North, said point also being the northwestern corner of parcel 0467-49-1752, thence with the western boundary of said parcel in a southwesterly direction approximately 484 feet to northwestern corner of parcel 0467-39-4168, thence continuing with the western boundary of said parcel in a southwesterly direction approximately 465 feet to the southwestern corner of said parcel, thence in an easterly direction approximately 51 feet to the northwest corner of parcel 0467-29-3578, thence along the western boundary of said parcel also being the eastern right-of-way of White Plains Drive in a southwesterly direction approximately 75 feet to the northern right-of-way of Sara Lane, thence crossing said right-of-way in a southwesterly direction approximately 50 feet to the northwestern corner of parcel 0467-29-3442, thence along the western boundary of said parcel in a southwesterly direction approximately 79 feet to the northwestern corner of parcel 0467-29-3322, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-29-3202, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-29-2182, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-29-2062, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-28-2942, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-28-2823, thence along the western boundary of said parcel in a southwesterly direction approximately 100 feet to the northwestern corner of parcel 0467-28-2701, thence along the western boundary of said parcel in a southwesterly direction approximately 147 feet

to the northwestern corner of parcel 0467-28-1549, thence along the western boundary of said parcel in a southwesterly direction approximately 130 feet to the southwestern corner of said parcel, thence in an easterly direction along the southern boundary of said parcel approximately 30 feet, to the northwestern corner of parcel 0467-28-1446, thence along the western boundary of said parcel in a southwesterly direction approximately 121 feet to the northwestern corner of parcel 0467-28-1314, thence along the western boundary of said parcel in a southwesterly direction approximately 125 feet to the northwestern corner of parcel 0467-28-0282, thence along the western boundary of said parcel in a southwesterly direction approximately 137 feet to the northern margin of Mercedes Drive, thence crossing Mercedes Drive in a southwesterly direction approximately 50 feet to the northwestern corner of parcel 0467-28-0045, thence along the western boundary of said parcel in a southwesterly direction approximately 137 feet to the northwestern corner of parcel 0467-27-0913, thence along the western boundary of said parcel in a southwesterly direction approximately 125 feet to the northwestern corner of parcel 0467-17-9881, thence along the western boundary of said parcel in a southwesterly direction approximately 134 feet to the southwestern corner of said parcel, said point also being in the eastern right-of-way margin of White Plains Drive, thence in a westerly direction crossing White Plains Drive, I-95 North and I-95 South approximately 550 feet to the southeastern corner of parcel 0457-98-3830, thence with the southern boundary of said parcel in a westerly direction approximately 1222 feet to the eastern right-of-way margin of Rock Hill Road, thence crossing said right-of-way in an easterly direction approximately 50 feet to the southeastern corner of parcel 0457-98-3830, thence with the southern boundary of said parcel in a westerly direction approximately 1463 feet to the southwestern corner of said parcel, thence northerly along the western boundary of said parcel approximately 1940 feet to the southwestern corner of parcel 0457-89-5961, thence along the western boundary of said parcel in a northerly direction approximately 379 feet to a point in the western boundary of parcel 0458-90-5360, thence with western boundary of said parcel in a northwesterly direction approximately 543 feet to the northwestern corner of said parcel, thence along the northern boundary of said parcel in an easterly direction approximately 327 feet to a point in the western boundary of parcel 0458-91-3073, thence with said western boundary in a northerly direction approximately 688 feet to the southeastern corner of parcel 0458-81-3678, thence with the southern boundary of said parcel in a southwesterly direction approximately 435 feet to the southeastern corner of parcel 0458-81-0757, thence along southern boundary of said parcel approximately 10 feet to the southwestern corner of said parcel, continuing along the western boundary of said parcel approximately 652 feet to a point in the southern boundary of parcel 0458-71-5934, thence with southern boundary in a westerly direction approximately 601 feet to the southeastern corner of parcel 0458-72-0025, thence with southern boundary of said parcel in a westerly direction approximately 179 feet to the southeastern corner of parcel 0458-61-9831, thence with southern boundary of said parcel in a westerly direction approximately 310 feet to a point in the eastern boundary of parcel 0458-61-7782, thence crossing said parcel in a westerly direction approximately 60 feet to the southeastern corner of parcel 0458-61-7967, thence with the southern boundary of said parcel in a westerly direction approximately 161 feet to a point in the eastern boundary of parcel 0458-61-4648, thence continuing with the eastern boundary of said parcel in a southerly direction approximately 95 feet to the northeastern corner of parcel 0458-61-3440, thence with the eastern boundary of said parcel in a southerly direction approximately 330 feet to the northeastern corner of

parcel 0458-61-4240, thence with the eastern boundary of said parcel in a southerly direction approximately 105 feet to the northeast corner of parcel 0458-61-4049, thence with the eastern boundary of said parcel in a southerly direction approximately 105 feet to a point in the eastern boundary of parcel 0458-61-3005, thence continuing with said eastern boundary in a southerly direction approximately 112 feet to the northeast corner of parcel 0458-60-3788, thence along the eastern boundary of said parcel in a southerly direction approximately 363 feet to the northeast corner of parcel 0458-60-3592, thence along the eastern boundary of said parcel in a southerly direction approximately 293 feet to the northeast corner of parcel 0458-60-4204, thence along the eastern boundary of said parcel in a southerly direction approximately 286 feet to the northeast corner of parcel 0458-60-4021, thence along the eastern boundary of said parcel in a southerly direction approximately 178 feet to the northeast corner of parcel 0457-69-4724, thence along the eastern boundary of said parcel in a southerly direction approximately 368 feet to the northeast corner of parcel 0457-69-3083, thence along the eastern boundary of said parcel in a southerly direction approximately 758 feet, thence westerly along said parcel approximately 88 feet to a point in the eastern boundary of said parcel, thence continuing southerly along the eastern boundary approximately 295 feet to the southeastern corner of said parcel, thence westerly along the southern boundary of said parcel approximately 169 feet to the southeastern corner of parcel 0457-68-1651, thence in a westerly direction approximately 220 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-9621, thence in a westerly direction approximately 202 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-7559, thence in a westerly direction approximately 199 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-6620, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-5529, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-4529, thence in a westerly direction approximately 122 feet along the boundary of said parcel to the southeastern right-of-way of Jimree Ave., thence in a westerly direction approximately 210 feet along the right-of-way of Jimree Ave., thence in a northeasterly direction approximately 60 feet along the right-of-way of Jimree Ave. to the southern boundary of parcel 0457-58-1614, thence in an easterly direction approximately 10 feet to the southwestern corner of parcel 0457-58-2633, thence along the western boundary of said parcel in a northeasterly direction approximately 152 feet to the southwest corner of parcel 0457-58-2767, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-58-2981, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3004, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3128, thence along the western boundary of said parcel in a northerly direction approximately 140 feet to the southwest corner of parcel 0457-59-3323, thence along the western boundary of said parcel in a northerly direction approximately 144 feet to the southwest corner of parcel 0457-59-3409, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2684, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2769, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2945, thence along the western boundary of said

parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-2110, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1296, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1461, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1537, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-0792, thence along the western boundary of said parcel in a northwesterly direction approximately 151 feet to the southwest corner of parcel 0458-50-0866, thence in a southerly direction approximately 446 feet to the southernmost corner of parcel 0458-41-7092, thence in a northerly direction along the western boundary of said parcel approximately 228 feet to a point in the western boundary of said parcel, thence continuing along said boundary in a northwesterly direction approximately 775 feet to a point in the western boundary of said parcel, thence in a northeasterly direction approximately 115 feet to the southern right-of-way margin of Dunn Road said point also being located in the northern boundary of parcel 0457-49-4668, thence in a southwesterly direction along said northern boundary approximately 347 feet to the northeastern corner of parcel 0458-41-2053, thence along the eastern boundary of said parcel in a southeasterly direction approximately 209 feet to the northeast corner of parcel 0458-40-3840, thence along the eastern boundary of said parcel in a southeasterly direction approximately 300 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 119 feet to the southwest corner of said parcel, thence along the western boundary of said parcel in a northwesterly direction approximately 282 feet to a point in the southern boundary of parcel 0458-40-1966, thence in a southwesterly direction along said southern boundary approximately 80 feet to the southeastern corner of parcel 0458-40-0825, thence with the southern boundary of said parcel in southwesterly direction approximately 280 feet to a point in the eastern boundary of parcel 0458-30-8598, thence continuing along the eastern boundary of said parcel in a southeasterly direction approximately 315 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 189 feet to the southeast corner of parcel 0458-30-7348, thence with the southern boundary of said parcel in a southwesterly direction approximately 88 feet to the northeast corner of parcel 0458-30-7230, thence with the eastern boundary of said parcel in a southerly direction approximately 112 feet to the southeast corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 192 feet to the eastern right-of-way margin of Al Ray Road, thence along the western boundary of said parcel in a northerly direction approximately 112 feet to the southwestern corner of parcel 0458-30-7348, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northerly direction approximately 250 feet to the southwestern corner of parcel 0458-30-6680, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northwesterly direction approximately 196 feet to the southern right-of-way margin of Dunn Road, thence in a northwesterly direction crossing said right-of-way approximately 60 feet to a point in the southern boundary of parcel 0458-30-5803, thence along the southern boundary of said parcel in a southwesterly direction approximately 210 feet to the southwest corner of said parcel, thence along the western boundary of said parcel in a northeasterly

direction approximately 350 feet to the northwest corner of said parcel, thence along the northern boundary of said parcel in a northeasterly direction approximately 257 feet to the northeast corner of said parcel, thence in a northerly direction along the western boundary of parcel 0458-31-6159 approximately 171 feet to a point, thence along said parcel boundary in a westerly direction approximately 65 feet to a point, thence along the westernmost boundary of said parcel in a northerly direction approximately 203 feet to the southern right-of-way of I-95 North said point also being the northwest corner of said parcel, thence in a northeasterly direction approximately 205 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-7293, thence in a northeasterly direction approximately 110 feet to the northwest corner of parcel 0458-31-9312, thence in a northeasterly direction approximately 103 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-9490, thence in a northeasterly direction approximately 90 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-0499, thence in a northeasterly direction approximately 184 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-4905, thence in a northeasterly direction approximately 522 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-7807, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southerly direction approximately 20 feet to the northwest corner of parcel 0458-52-1268, thence in a northeasterly direction approximately 719 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a northwesterly direction approximately 935 feet across the right-of-way of Interstate 95 to the point of BEGINNING, said point being the southeast corner of parcel 0458-43-9229 and the western right-of-way of Dobbin Holmes Rd.

"Section 2.2. **Annexation Restrictions.** (a) The Town of Eastover shall not extend its boundaries by annexation or otherwise into any of the following described property: Beginning at a point, in the eastern right-of-way margin of Rich Walker Road and the center line of I-295, thence in a northwesterly direction approximately 10533 feet to the western bank of the Cape Fear River, thence in a southerly direction as the River meanders to the existing Fayetteville City limit line, said point being the southeastern boundary of parcel 0530-91-3792, thence crossing said Cape Fear River to the eastern bank, said point being in the line of parcel 0449-49-3093, thence meandering in a southerly direction with the eastern bank of the Cape Fear River to the northwest corner of parcel 0448-26-3099, said point being the Fayetteville City limit line, thence in a northeasterly direction along boundary line and Fayetteville City limit line approximately 1750 feet to the northeast corner of said parcel, thence in a southerly direction along the boundary of said parcel and Fayetteville City limit line approximately 2600 feet to the southwest corner of parcel 0448-36-0682, thence in a northeasterly direction along Fayetteville City limit line approximately 2225 feet to the southwest corner of parcel 0448-57-2157, thence continuing along Fayetteville City limit line in a northerly direction approximately 420 feet to the northwest corner of said parcel, thence in a northeasterly direction approximately 425 feet to the northeast corner of said parcel, thence along Fayetteville City limit line in a southerly direction approximately 1115 feet to the northeast corner of parcel 0448-56-3152, thence in a southwesterly direction approximately 300 feet to the northwest corner of said parcel, thence in a southerly direction approximately 200 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 300 feet to the western right-of-way margin of River Road, thence in a southerly direction along said right-of-way margin approximately 55 feet to the northern right-of-way margin of the

railroad, thence in a southwesterly direction along Fayetteville City limit line and the right-of-way margin of the railroad to the southeastern corner of parcel 0448-23-4912, thence in a northwesterly direction approximately 150 feet to the northeastern corner of said parcel, thence in a southwesterly direction approximately 100 feet to the northwest corner of said parcel, thence in a southeasterly direction approximately 150 feet to the northern right-of-way margin of the railroad, thence along Fayetteville City limit line and said right-of-way margin in a southwesterly direction to the eastern bank of the Cape Fear River, thence in southerly direction as the River meanders to the southwestern boundary of parcel 0447-36-7656, said point also being the Fayetteville City limit line, thence in an easterly direction along Fayetteville City Limit line and northern right-of-way margin of Middle River Lp approximately 1542 feet to the southwest corner of parcel 0447-57-2140, thence in a northwesterly direction approximately 383 feet to the northwest corner of said parcel, thence in a northeasterly direction approximately 530 feet to the northeastern corner of said parcel, thence continuing along said boundary line in a southeasterly direction approximately 650 feet to the northern right-of-way of Middle River Loop, thence continuing along Fayetteville City limit line in an easterly direction crossing Middle River LP, I-95 Business S on ramp, Middle Road and I-95 Business S off ramp approximately 2072 feet to the southeast corner of parcel 0447-77-6665, said point being in the northern right-of-way margin of I-95 and the western right-of-way margin of Hollywood Boulevard, thence continuing along Fayetteville City limit line and the northern right-of-way margin of I-95 in an easterly direction approximately 1300 feet to a point in the boundary of parcel 0447-89-9033, thence continuing to follow Fayetteville City limit line in a southeasterly direction crossing the right-of-way margin of I-95 to a point in the southern right-of-way margin of Dunn Road, thence continuing to follow Fayetteville City limit line and the southern right-of-way margin of Dunn Road in a southwesterly direction to the northeast corner of parcel 0447-75-4904, thence in a southerly direction along Fayetteville City limit line to a point in the northwest corner of parcel 0447-74-2116, thence continuing in a southeasterly direction approximately 50 feet to the western margin of N. Plymouth Street, thence in an easterly direction crossing N. Plymouth Street to the eastern right-of-way following Fayetteville City limit line, thence in a southerly direction along the eastern right-of-way margin of N. Plymouth Street to the intersection of the eastern right-of-way margin of N. Plymouth Street and the southern right-of-way margin of NC Hwy 24, said point being the northwest corner of parcel 0447-72-3017, thence in an easterly direction to the northeast corner of said parcel continuing to follow Fayetteville City limit line, thence along the southern right-of-way margin of NC Hwy 24 in an easterly direction approximately 381 feet to the northeast corner of said parcel, thence in a southeasterly direction approximately 171 feet to a point in said parcel, thence in a westerly direction approximately 210 feet to a point in said parcel, thence in a southeasterly direction approximately 342 feet to the southeastern boundary of said parcel, thence in a southwesterly direction approximately 406 feet to the eastern right-of-way margin of N. Plymouth Street, thence in a southerly direction approximately 968 feet to the northern right-of-way margin of Clinton Road, thence following the Fayetteville City limit line to a point in the southern boundary of parcel 0447-71-3194, thence crossing the right-of-way margin of Clinton Road and the right-of-way of railroad to the northwestern corner of parcel 04556-79-9546, thence in a southwesterly direction approximately 943 feet to a point in said parcel, thence in a southeasterly direction approximately 425 feet to a point in said parcel, thence in southwesterly direction approximately 105 feet to the southwestern corner of said

parcel, thence in northwesterly direction approximately 210 feet to the northwestern corner of parcel 0446-88-5562, thence in a southerly direction approximately 327 feet to a point in parcel 0446-78-4625, thence in a northeasterly direction approximately 113 feet to a point in said parcel, thence in a southerly direction approximately 94 feet to a point in said parcel, thence in a southwesterly direction approximately 79 feet to a point in said parcel, thence in a southerly direction approximately 46 feet to the southeastern corner of said parcel, thence in a southeasterly direction approximately 751 feet to the eastern corner of parcel 0446-78-9081, thence in a southwesterly direction approximately 200 feet to the eastern right-of-way margin of Sapona Road, thence in southeasterly direction approximately 250 feet along said margin, thence crossing said right-of-way in a westerly direction approximately 60 feet to the southeast corner of parcel 0446-77-8796, thence in a southeasterly direction approximately 75 feet to the southeast corner of parcel 0446-77-9699, thence in a southwesterly direction approximately 155 feet to the southwest corner of said parcel, thence in a southwesterly direction approximately 2750 feet to a point in the northern margin of parcel 0446-74-3948, thence in northeasterly direction approximately 525 feet to the northeastern corner of said parcel, thence in a southerly direction approximately 310 feet to a point in Twin Ponds Drive, thence in a westerly direction approximately 20 feet to the northeastern corner of parcel 0446-74-3678, thence in a southerly direction along the western right-of-way margin of Twin Ponds Drive approximately 265 feet to the northeast corner of parcel 0446-74-6442, thence in a southwesterly direction approximately 170 feet to the northeast corner of parcel 0446-74-4386, thence in a westerly direction approximately 210 feet to the northwest corner of said parcel, thence in a southeasterly direction approximately 200 feet to the southwest corner of parcel 0446-74-5266, thence in northeasterly direction approximately 315 feet to the western right-of-way margin of Twin Ponds Drive, thence with said right-of-way margin in a southerly direction approximately 175 feet to the southeast corner of parcel 0446-74-5131, thence in a westerly direction approximately 325 feet to a point in said parcel, thence in a southeasterly direction approximately 375 feet to a point in parcel 0446-73-5588, thence in an easterly direction approximately 90 feet to the northeast corner of said parcel, thence in a southerly direction approximately 130 feet to the southeast corner of said parcel, thence along the southern boundary of said parcel in a westerly direction approximately 70 feet to a point in the northern right-of-way margin of Peteland Drive, thence in a southerly direction crossing said right-of-way approximately 60 feet to the northeast corner of parcel 0446-73-6338, thence with the Fayetteville City limit line in a southeasterly direction approximately 1633 feet to a point in the northern boundary of parcel 0446-81-3981, thence in a northeasterly direction with the Fayetteville City limit line 386 feet to a point in the western boundary of parcel 0446-94-3030, thence in a southerly direction approximately 450 feet to the southeastern corner of parcel 0446-81-4559, thence in a southwesterly direction approximately 200 feet to the northeast corner of parcel 0446-81-4471, thence in a southeasterly direction approximately 325 feet to the southern right-of-way margin of L A Dunham Road, thence following Fayetteville City limit line and the southern right-of-way margin of L A Dunham Road to the northeast corner of parcel 0456-11-0651, thence in a southerly direction approximately 839 feet to a point in said parcel, thence in a northeasterly direction approximately 660 feet to the southeast corner of parcel 0456-12-8048, thence in a northeasterly direction approximately 902 feet to the northwestern corner of parcel 0456-32-1403, thence in a northeasterly direction to the southwest corner of parcel 0456-45-1358, thence continuing along the Fayetteville

City limit line in a northerly direction approximately 2140 feet to a point, thence in a northeasterly direction approximately 150 feet to the southwest corner of parcel 0456-24-3901, thence in a southeasterly direction approximately 600 feet to the southeastern corner of parcel 0456-24-6763, thence in a northeasterly direction to the northern right-of-way margin of Sunnyside School Road, thence in a southeasterly direction with the northern margin of said right-of-way to a point in the western boundary of parcel 0456-33-7590, thence in a northerly direction approximately 1120 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 2400 feet to the northeast corner of said parcel, thence following Fayetteville City limit line and the eastern boundary of said parcel in a southerly direction to the northern right-of-way margin of Sunnyside School Road, thence along said right-of-way margin in an easterly direction approximately 500 feet to a point, thence crossing said right-of-way margin in a southerly direction approximately 60 feet to a point in the southern right-of-way margin, thence in an easterly direction along right-of-way margin approximately 200 feet to the northeast corner of parcel 0456-53-1890, thence in a southerly direction approximately 620 feet to the southwestern corner of parcel 0456-53-4620, thence in an easterly direction approximately 470 feet to the southeast corner of parcel 0456-53-6554, thence in a southerly direction approximately 530 feet to the southwest corner of parcel 0456-53-8141, thence with the Fayetteville City limit line and the southern boundary of said parcel to the northeast corner of parcel 0456-21-4388, thence in a southerly direction approximately 50 feet to the southeastern corner of said parcel, thence along southern boundary of said parcel in a southwesterly direction to the northwest corner of parcel 0456-42-5491, thence in northwesterly direction to a point in the boundary of parcel 0456-31-2266, thence in a northwesterly direction to the northernmost point of said parcel, thence in a southwesterly direction to the southwest corner of parcel 0456-20-9898, thence in a northeasterly direction to the northwest corner of parcel 0456-20-8003, thence along the western boundary of said parcel to the northeastern corner of parcel 0455-19-5394, thence in a westerly direction along the northern boundary of said parcel to the eastern right-of-way margin of Cedar Creek Road, thence continuing in a southeasterly direction with the Fayetteville City limit line and the eastern right-of-way margin of Cedar Creek Road to the southwest corner of parcel 0455-08-9918, thence in a northeasterly direction to the northwest corner of said parcel, thence in a southeasterly direction approximately 2609 feet to the western right-of-way margin of Jim Johnson Road, thence along the western margin of said right-of-way in a northerly direction approximately 435 feet following the Fayetteville City limit line, thence crossing said right-of-way in a southeasterly direction to the western right-of-way margin of the I-95 S "off ramp", thence in a northeasterly direction approximately 745 feet to the northeast corner of parcel 0455-39-8107, thence crossing I-95 in a southeasterly direction to a point in the western boundary of parcel 0455-49-8027, thence continuing with the Fayetteville City limit line in a southwesterly direction to the southwest corner of parcel 0455-47-1944, thence in a southeasterly direction to the southwestern corner of parcel 0455-47-7725, thence continuing Fayetteville City limit line in a northeasterly direction to the northwest corner of parcel 0455-58-0008, thence in a southeasterly direction approximately 420 feet to the northeast corner of parcel 0455-57-0862, thence in a southwesterly direction to the northwest corner of parcel 0455-57-1567, thence in a southeasterly direction approximately 339 feet to a point in the western boundary of parcel 0455-57-6565, thence in a southwesterly direction to the northwest corner of parcel 0455-57-2351,

thence in a southeasterly direction approximately 175 feet to the northeast corner of said parcel, thence in a northeasterly direction to the northwest corner of parcel 0455-57-4223, thence in a southwesterly direction to the northern right-of-way margin of Cedar Creek Road, thence in a southeasterly direction approximately 451 feet to a point in the northern margin of said right-of-way, thence crossing said right-of-way in southwesterly direction approximately 400 feet to the southernmost corner of parcel 0455-56-4731, thence along the Fayetteville City limit line approximately 682 feet to the southwestern corner of parcel 0455-56-0956, thence in a northeasterly direction to the southeastern corner of parcel 0455-47-9067, thence along the Fayetteville City limit line in a northwesterly direction approximately 293 feet to the northwestern corner of parcel 0455-46-7872, thence in a southwesterly direction approximately 450 feet to the southwest corner of said parcel, thence in a northwesterly direction approximately 552 feet to the eastern right-of-way margin of I-95 N "off ramp," thence in a southwesterly direction along the said eastern right-of-way margin approximately 1718 feet to a point in the western boundary of parcel 0455-34-5949, thence crossing the right-of-way of I-95 in a northwesterly direction to a point in the western margin of I-95, thence along said western right-of-way margin approximately 865 feet to the southernmost corner of parcel 0455-27-9181, thence in a northwesterly direction approximately 357 feet to the eastern right-of-way margin of Jim Johnson Road, thence crossing said right-of-way in a westerly direction to a point in the eastern boundary of parcel 0455-27-3309, thence in a southerly direction along said eastern boundary approximately 110 feet to the southeast corner of said parcel, thence in a northwesterly direction approximately 1000 feet to the eastern right-of-way margin of Bureau Drive, thence in a southwesterly direction along said right-of-way margin approximately 197 feet to a point in said eastern right-of-way, thence in a northwesterly direction approximately 320 feet to the southwest corner of parcel 0455-17-6410, thence continuing along Fayetteville City limit line to the southeastern corner of parcel 0455-18-5042, thence in a northwesterly direction approximately 1413 feet to the southwest corner of parcel 0455-08-7444, thence with the western boundary of said parcel to the southern right-of-way margin of Cedar Creek Road, thence along said right-of-way margin in a northwesterly direction approximately 760 feet to a point in parcel 0445-99-2413, thence in a southwesterly direction to the eastern right-of-way margin Fields Road, thence in southwesterly direction along said margin to the northernmost corner of parcel 0445-97-3707, thence continuing along the northern margin of said parcel and the Fayetteville City limit line approximately 2200 feet to the northeast corner of said parcel, thence in a southeasterly direction to a point in the western boundary of parcel 0455-07-8478, thence in a southwesterly direction to the southernmost corner of parcel 0445-97-3707, thence in a northwesterly direction approximately 2273 feet to the western right-of-way margin of Fields Road, thence along the western right-of-way margin of Fields Road to the southwestern corner of parcel 0445-89-8657, thence in a northwesterly direction along Fayetteville City limit line approximately 875 feet to the northwest corner of parcel 0446-80-5098, thence in a northeasterly direction to the southwest corner of parcel 0446-80-6222, thence a northerly direction to the northwest corner of said parcel, thence in a northeasterly direction along the northern boundary of said parcel to the western right-of-way margin of Cedar Creek Road, thence in a northwesterly direction along said right-of-way margin approximately 200 feet to the southeast corner of parcel 0446-80-4596, thence in a southwesterly direction approximately 183 feet to the southwest corner of said parcel, thence in a northwesterly direction along the Fayetteville City limit line approximately 2190 feet to the northwest corner of parcel

0446-72-5488, thence in an easterly direction approximately 400 feet to the western right-of-way margin of Cedar Creek Road, thence along said right-of-way margin to the southeast corner of parcel 0446-63-9772, thence in a southwesterly direction approximately 597 feet to the southwest corner of said parcel, thence in a northwesterly direction approximately 542 feet to the northwest corner of parcel 0446-63-8905, thence along Fayetteville City limit line in southwesterly direction to the western bank of the Cape Fear River, thence as the River meanders to a point in the boundary of parcel 0464-66-7978, thence along the boundary of said parcel in a northeasterly direction to the western right-of-way margin of Cedar Creek Road said point being in the eastern right-of-way margin of railroad, thence continuing with the right-of-way margin of the railroad in a northeasterly/northerly direction to the southern right-of-way margin of Old Vander Road, thence continuing in a northerly direction along said railroad right-of-way to a point in the western boundary of parcel 0476-30-3574, thence in a northeasterly direction to the northwest corner of said parcel, thence in a northeasterly direction to a point in the western boundary of parcel 0476-64-1000, thence in a northwesterly direction to another point in said boundary, thence in a northeasterly direction to a point in said boundary, thence in southeasterly direction to the southwest corner of parcel 0476-45-9857, thence along the western boundary of said parcel in a northeasterly direction to the southeastern corner of parcel 0476-46-4179, thence in a northwesterly direction approximately 700 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 1800 feet to the northeast corner of parcel 0476-36-8586, thence in a northwesterly direction approximately 165 feet to a point in the northern margin of said parcel, thence crossing right-of-way of Clinton Road in a northerly direction to the southeast corner of parcel 0476-47-5726, thence in a northwesterly direction to the southernmost corner of parcel 0476-47-2998, thence along southern boundary of said parcel approximately 154 feet to the southeast corner of said parcel, thence in a northerly direction approximately 260 feet to a point in parcel 0476-48-1256, thence in a northeasterly direction to the easternmost corner of parcel 0476-38-8607, thence in a northerly direction to the southernmost corner of parcel 0476-49-2088, thence in a northwesterly direction crossing right-of-way margin of Hummingbird Place to the southwest corner of parcel 0476-49-5316, thence in a northeasterly direction approximately 460 feet to the southeast corner of said parcel, thence in a northwesterly direction approximately 312 feet to the northeast corner of parcel 0476-49-4406, thence in a southwesterly direction approximately 460 feet to the eastern right-of-way margin of Hummingbird Place, thence continuing with eastern right-of-way margin in a northwesterly direction to the southwest corner of parcel 0477-40-1047, thence in a northeasterly direction approximately 555 feet to the southeast corner of said parcel, thence in a northwesterly direction to the northeast corner of said parcel, thence in a southwesterly direction approximately 502 feet to the eastern right-of-way margin of Hummingbird Place, thence in a northwesterly direction approximately 60 feet to the southwest corner of parcel 0477-30-9391, thence in a northeasterly direction approximately 1120 feet to the southwestern corner of parcel 0477-50-5792, thence in a northeasterly direction to a point in the western boundary of said parcel, thence in a northwesterly direction to the westernmost corner of said parcel, thence crossing parcel 0477-41-7122 in a northerly direction to the southwest corner of parcel 0477-51-0886, thence in a northerly direction to the easternmost corner of parcel 0477-42-4626, thence in a northwesterly direction for approximately 206 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-3637, thence in a northwesterly direction for approximately 98 feet along the boundary of said parcel to

the southeast corner of parcel 0477-42-2751, thence in a northwesterly direction for approximately 88 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-2840, thence in a northwesterly direction for approximately 81 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-1863, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0895, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0839, thence in a northwesterly direction for approximately 26 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-9868, thence in a northwesterly direction for approximately 74 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-8889, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-8910, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7931, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7901 thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-6912, thence in a northwesterly direction for approximately 80 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-5942, thence in a northwesterly direction for approximately 59 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-4962, thence in a northwesterly direction for approximately 165 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-3957, thence in a northwesterly direction for approximately 83 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northerly direction for approximately 130 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3150, thence in a northerly direction for approximately 214 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3262, thence in a northerly direction for approximately 132 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3465, thence in a northerly direction for approximately 242 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3549, thence in a northerly direction for approximately 35 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3679, thence in a northerly direction for approximately 183 feet along the boundary of said parcel to a southwest corner of parcel 0477-35-3203, thence in a northerly direction for approximately 85 feet along the boundary of said parcel, thence in a northwesterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 1130 feet along the boundary of said parcel to a southeast corner of parcel 0477-25-9270, thence in a westerly direction approximately 210 feet to the eastern right-of-way of Bobby Jones Dr., thence in a westerly direction to the western right-of-way of Bobby Jones Dr. to the southeastern corner of parcel 0477-25-7255, thence in a westerly direction approximately 178 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-6205, thence in a westerly direction approximately 149 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-4274, thence in a westerly direction approximately 121 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-3254, thence in a westerly direction approximately 125 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-2213, thence in a westerly direction approximately 171 feet along the southern boundary of said parcel to the southeastern corner of parcel

0477-25-0276, thence in a northwesterly direction approximately 152 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-9340, thence in a northwesterly direction approximately 127 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-8334, thence in a northwesterly direction approximately 119 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-7318, thence in a northwesterly direction approximately 123 feet along the southern boundary of said parcel to the northeastern corner of parcel 0477-15-3242, thence in a southwesterly direction approximately 345 feet along the eastern boundary of said parcel to the northeastern corner of parcel 0477-14-3586, thence in a southwesterly direction approximately 895 feet along the eastern boundary of said parcel to the southeastern corner of said parcel and the northern right-of-way of Hummingbird Pl., thence in a northwesterly direction approximately 200 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-1657, thence in a northwesterly direction approximately 249 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-9015, thence in a northwesterly direction approximately 28 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-8591, thence in a northwesterly direction approximately 155 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-8752, thence in a northwesterly direction approximately 23 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-7547, thence in a northwesterly direction approximately 132 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7676, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7418, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-4579, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-5664, thence in a northwesterly direction approximately 158 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-4702, thence in a northwesterly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-2778, thence in a northwesterly direction approximately 119 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1933, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1625, thence in a northwesterly direction approximately 77 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-0637, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-9877, thence in a northwesterly direction approximately 94 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-8862, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-7703, thence in a northwesterly direction approximately 256 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 57 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-4732, thence in a northwesterly direction approximately 183 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-2765, thence in a northwesterly direction approximately 169 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-84-9738, thence in a northwesterly direction approximately 147 feet along

the boundary of said parcel to the southwestern corner of said parcel, thence in a southwesterly direction approximately 125 feet across the intersection of Baywood Rd. and Hummingbird Pl. to the northeastern corner of parcel 0467-84-5548, thence in a southerly direction approximately 224 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-5317, thence in a southerly direction approximately 250 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-6034, thence in a southwesterly direction approximately 325 feet along the boundary of said parcel to the southeast corner of said parcel and right-of-way of Sulky Circle, thence in a southwesterly direction approximately 80 feet across Sulky Circle to the northeast corner of parcel 0467-83-4633, thence in a southwesterly direction approximately 410 feet along the boundary of said parcel to the northeast corner of parcel 0467-83-1337, thence in a southwesterly direction approximately 364 feet along the boundary of said parcel to the northeast corner of parcel 0467-83-0021, thence in a southwesterly direction approximately 320 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9797, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9687, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9566, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9456, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-82-0236, thence in a southwesterly direction approximately 238 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9042, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-81-0908, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the southeast corner of said parcel and the northern right-of-way of West Frontier Ave., thence in a southwesterly direction approximately 65 feet across West Frontier Ave. to the southern right-of-way of West Frontier Ave. and the northeast corner of parcel 0467-71-9891, thence in a southwesterly direction approximately 90 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-9602, thence in a southwesterly direction approximately 113 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8581, thence in a southwesterly direction approximately 112 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8471, thence in a southwesterly direction approximately 107 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8291, thence in a southwesterly direction approximately 214 feet along the boundary of said parcel to the southeast corner of said parcel and northern right-of-way of Pleasant View Dr., thence in a southwesterly direction approximately 90 feet to the southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 410 feet along the right-of-way of Pleasant View Dr. to the northeast corner of parcel 0467-71-3142, thence in a southwesterly direction approximately 405 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a northwesterly direction approximately 188 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-1136, thence in a northwesterly direction approximately 178 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-0353, thence in a northwesterly direction approximately 135 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-9450, thence in a northwesterly direction approximately 117 feet along the boundary of said parcel to the southeastern corner of

parcel 0467-61-8596, thence in a northwesterly direction approximately 26 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-7506, thence in a northwesterly direction approximately 274 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-6713, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-5769, thence in a northwesterly direction approximately 10 feet along the boundary of said parcel to a point in the eastern boundary of parcel 0467-61-1721, thence in a southerly direction along the boundary of said parcel to the southeastern corner of said parcel, thence in a westerly direction approximately 574 feet along the boundary of said parcel to the southeastern corner of parcel 0467-52-8171, thence in a westerly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of parcel 0467-52-6174, thence in a westerly direction approximately 188 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 639 feet along the boundary of said parcel to the southern boundary of parcel 0467-52-3563, thence in a southwesterly direction approximately 230 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8194, thence in a southwesterly direction approximately 48 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8070, thence in a southwesterly direction approximately 241 feet along the boundary of said parcel to the northeast corner of parcel 0467-41-7863, thence in a southwesterly direction approximately 463 feet along the boundary of said parcel to a corner of parcel 0467-41-4676, thence in a southwesterly direction approximately 432 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northwesterly direction approximately 215 feet along the boundary of said parcel to the southwest corner of parcel 0467-41-3941, thence in a northwesterly direction approximately 482 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3146, thence in a northwesterly direction approximately 190 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3318, thence in a northwesterly direction approximately 327 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-2692, thence in a northwesterly direction approximately 269 feet along the boundary of said parcel to the southeast corner of parcel 0467-33-9030, thence in a westerly direction approximately 225 feet along the boundary of said parcel to the southeast corner of parcel 0467-32-6967, thence in a westerly direction approximately 270 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Pleasant View Dr., thence in a westerly direction approximately 65 feet across the right-of-way of Pleasant View Dr. to the southeast corner of parcel 0467-32-3985, thence in a southwesterly direction approximately 539 feet along the western right-of-way of Pleasant View Dr to the boundary of parcel 0467-22-9726, thence in a southeasterly direction approximately 117 feet across the western right-of-way of Pleasant View Dr. to the eastern right-of-way of Pleasant View Dr. and a corner of parcel 0467-22-9726, thence in a southeasterly direction approximately 1227 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a southwesterly direction approximately 354 feet along the boundary of said parcel to the southeast corner of parcel 0467-22-6379, thence in a southwesterly direction approximately 390 feet along the boundary of said parcel to the southeast corner of parcel 0467-22-3161, thence in a southwesterly direction approximately 442 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-7795, thence in a southwesterly direction approximately 125 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-4671, thence in a

southwesterly direction approximately 289 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 410 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-0546, thence in a northwesterly direction approximately 198 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-8544, thence in a northwesterly direction approximately 179 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-6543, thence in a northwesterly direction approximately 228 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northwesterly direction approximately 160 feet to the southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 175 feet across the right-of-way of Pleasant View Dr. to the northern right-of-way of Pleasant View Dr. and southeast corner of parcel 0467-10-1980, thence in a westerly direction approximately 267 feet along the boundary of said parcel to the southwest corner of said parcel and the eastern right-of-way of Rock Hill Rd., thence in a southwesterly direction approximately 155 feet across the right-of-way of Rock Hill Rd. to the western right-of-way of Rock Hill Rd. and the southeast corner of parcel 0467-00-8637, thence in a southwesterly direction approximately 242 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 110 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Poplar Hill Rd., thence in a westerly direction approximately 130 feet across the right-of-way of Poplar Hill Rd. to the southeastern corner of parcel 0467-00-4718, thence in a northwesterly direction approximately 324 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a southeasterly direction approximately 241 feet along the boundary of said parcel to the northeastern corner of said parcel and western right-of-way of Poplar Hill Rd., thence in a northwesterly direction approximately 535 feet along the western right-of-way of Poplar Hill Rd., thence in a northeasterly direction approximately 344 feet along the western right-of-way of Poplar Hill Rd., to the southeastern corner of parcel 0467-01-3803, thence in a southwesterly direction approximately 418 feet along the boundary of said parcel to the southeastern corner of parcel 0457-92-9476, thence in a southwesterly direction approximately 453 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 523 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 70 feet along the boundary of said parcel to the westernmost corner of said parcel, thence in a northeasterly direction approximately 1091 feet along the boundary of said parcel to the southwestern corner of parcel 0457-83-9229, thence in a northeasterly direction approximately 200 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a westerly direction approximately 570 feet across the right-of-way of Interstate 95 to the southeastern corner of parcel 0457-84-7040, thence in a westerly direction approximately 835 feet along the boundary of said parcel to the southeastern corner of parcel 0457-84-3036, thence in a westerly direction approximately 373 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-9036, thence in a westerly direction approximately 456 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-4018, thence in a westerly direction approximately 641 feet along the boundary of said parcel to the southwestern corner of

said parcel, thence in a northerly direction approximately 1111 feet along the boundary of said parcel to the boundary line of parcel 0457-75-3060, thence in a westerly direction approximately 76 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 688 feet along the boundary of said parcel to a point in the southern boundary of parcel 0457-75-2756, thence in a northerly direction approximately 200 feet to a point in the boundary of said parcel, thence in a westerly direction approximately 343 feet along the boundary of said parcel, thence in a northerly direction approximately 273 feet along the boundary of said parcel, thence in an easterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 196 feet along the boundary of said parcel to the southwestern corner of parcel 0457-76-2501, thence in a northerly direction approximately 362 feet along the boundary of said parcel to the southeastern corner of parcel 0457-66-6642, thence in a westerly direction approximately 265 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 478 feet along the boundary of said parcel to the southwest corner of parcel 0457-66-6917, thence in a northerly direction approximately 185 feet along the boundary of said parcel to the southwest corner of parcel 0457-67-8466, thence in a northerly direction approximately 890 feet along the boundary of said parcel to the southwest corner of parcel 0457-78-5347, thence in a northerly direction approximately 527 feet along the boundary of said parcel, thence in a westerly direction approximately 109 feet along the boundary of said parcel to the southeast corner of parcel 0457-69-3083, thence westerly along the southern boundary of said parcel approximately 169 feet to the southeastern corner of parcel 0457-68-1651, thence in a westerly direction approximately 220 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-9621, thence in a westerly direction approximately 202 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-7559, thence in a westerly direction approximately 199 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-6620, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-5529, thence in a westerly direction approximately 100 feet along the boundary of said parcel to the southeast corner of parcel 0457-58-4529, thence in a westerly direction approximately 122 feet along the boundary of said parcel to the southeastern right-of-way of Jimree Ave., thence in a westerly direction approximately 210 feet along the right-of-way of Jimree Ave., thence in a northeasterly direction approximately 60 feet along the right-of-way of Jimree Ave. to the southern boundary of parcel 0457-58-1614, thence in an easterly direction approximately 10 feet to the southwestern corner of parcel 0457-58-2633, thence along the western boundary of said parcel in a northeasterly direction approximately 152 feet to the southwest corner of parcel 0457-58-2767, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-58-2981, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3004, thence along the western boundary of said parcel in a northeasterly direction approximately 138 feet to the southwest corner of parcel 0457-59-3128, thence along the western boundary of said parcel in a northerly direction approximately 140 feet to the southwest corner of parcel 0457-59-3323, thence along the western boundary of said parcel in a northerly direction approximately 144 feet to the southwest corner of parcel 0457-59-3409, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel

0457-59-2684, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2769, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0457-59-2945, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-2110, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1296, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1461, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-1537, thence along the western boundary of said parcel in a northwesterly direction approximately 155 feet to the southwest corner of parcel 0458-50-0792, thence along the western boundary of said parcel in a northwesterly direction approximately 151 feet to the southwest corner of parcel 0458-50-0866, thence in a southerly direction approximately 446 feet to the southernmost corner of parcel 0458-41-7092, thence in a northerly direction along the western boundary of said parcel approximately 228 feet to a point in the western boundary of said parcel, thence continuing along said boundary in a northwesterly direction approximately 775 feet to a point in the western boundary of said parcel, thence in a northeasterly direction approximately 115 feet to the southern right-of-way margin of Dunn Road said point also being located in the northern boundary of parcel 0457-49-4668, thence in a southwesterly direction along said northern boundary approximately 347 feet to the northeastern corner of parcel 0458-41-2053, thence along the eastern boundary of said parcel in a southeasterly direction approximately 209 feet to the northeast corner of parcel 0458-40-3840, thence along the eastern boundary of said parcel in a southeasterly direction approximately 300 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 119 feet to the southwest corner of said parcel, thence along the western boundary of said parcel in a northwesterly direction approximately 282 feet to a point in the southern boundary of parcel 0458-40-1966, thence in a southwesterly direction along said southern boundary approximately 80 feet to the southeastern corner of parcel 0458-40-0825, thence with the southern boundary of said parcel in southwesterly direction approximately 280 feet to a point in the eastern boundary of parcel 0458-30-8598, thence continuing along the eastern boundary of said parcel in a southeasterly direction approximately 315 feet to the southeastern corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 189 feet to the southeast corner of parcel 0458-30-7348, thence with the southern boundary of said parcel in a southwesterly direction approximately 88 feet to the northeast corner of parcel 0458-30-7230, thence with the eastern boundary of said parcel in a southerly direction approximately 112 feet to the southeast corner of said parcel, thence along the southern boundary of said parcel in a southwesterly direction approximately 192 feet to the eastern right-of-way margin of Al Ray Road, thence along the western boundary of said parcel in a northerly direction approximately 112 feet to the southwestern corner of parcel 0458-30-7348, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northerly direction approximately 250 feet to the southwestern corner of parcel 0458-30-6680, thence continuing along said eastern right-of-way margin of Al Ray Road with the western boundary of said parcel in a northwesterly direction approximately 196 feet to the southern right-of-way margin of

Dunn Road, thence in a northwesterly direction crossing said right-of-way approximately 60 feet to a point in the southern boundary of parcel 0458-30-5803, thence along the southern boundary of said parcel in a southwesterly direction approximately 210 feet to the southwest corner of said parcel, thence along the western boundary of said parcel in a northeasterly direction approximately 350 feet to the northwest corner of said parcel, thence along the northern boundary of said parcel in a northeasterly direction approximately 257 feet to the northeast corner of said parcel, thence in a northern direction along the western boundary of parcel 0458-31-6159 approximately 171 feet to a point, thence along said parcel boundary in a westerly direction approximately 65 feet to a point, thence along the westernmost boundary of said parcel in a northerly direction approximately 203 feet to the southern right-of-way of I-95 North said point also being the northwest corner of said parcel, thence in a northeasterly direction approximately 110 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-9312, thence in a northeasterly direction approximately 103 feet along the boundary of said parcel to the northwest corner of parcel 0458-31-9490, thence in a northeasterly direction approximately 90 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-0499, thence in a northeasterly direction approximately 184 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-4905, thence in a northeasterly direction approximately 522 feet along the boundary of said parcel to the northwest corner of parcel 0458-41-7807, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the northwest corner of parcel 0458-52-1268, thence in a northeasterly direction approximately 719 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a northwesterly direction approximately 935 feet across the right-of-way of Interstate 95 to a point being the southeast corner of parcel 0458-43-9229 and the western right-of-way of Dobbin Holmes Rd., thence approximately 936 feet in a southwesterly direction with the southeastern boundary of said parcel to the southeastern corner of parcel 0458-32-9686, thence approximately 1590 feet in a southwesterly direction with the southeastern boundary of said parcel, thence approximately 535 feet in a northwesterly direction to a point in said parcel, thence approximately 276 feet in a southwesterly direction to a point in said parcel, thence approximately 1178 feet in a northeasterly direction to the northwest corner of said parcel, thence approximately 90 feet in a northwesterly direction along the right-of-way of Terrell Creek Rd. to the southeast corner of parcel 0458-34-7125, thence approximately 180 feet in a northwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-24-6320, thence approximately 685 feet in a northwesterly direction along the boundary of said parcel, thence approximately 293 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel 0458-13-0405, thence approximately 2323 feet in a southwesterly direction along the boundary of said parcel to the southeast corner of parcel 0448-92-9940, thence approximately 1145 feet in a southwesterly direction along the boundary of said parcel to the eastern right-of-way of Middle Rd., thence across Middle Rd. to the western right-of-way of Middle Rd. to the southeast corner of parcel 0448-92-1743, thence approximately 562 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-82-8960, thence approximately 105 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-82-6942, thence approximately 244 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-83-5001, thence approximately 66 feet along the southwestern boundary of said parcel to the southeast corner of parcel

0448-82-3909, thence approximately 304 feet along the southwestern boundary of said parcel to the southeast corner of parcel 0448-83-0085, thence approximately 203 feet along the southwestern boundary of said parcel to the southwest corner of said parcel, thence approximately 175 feet in a northeasterly direction along the western boundary of said parcel to the southwest corner of parcel 044-83-1224, thence approximately 274 feet along the boundary of said parcel to the northwest corner of said parcel, thence approximately 100 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-3246, thence in a northeasterly direction approximately 84 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-4369, thence in a northeasterly direction approximately 229 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-6516, thence in a northeasterly direction approximately 224 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-7741, thence in a northeasterly direction approximately 152 feet along the boundary of said parcel to the northwest corner of parcel 0448-83-8832, thence in a northeasterly direction approximately 150 feet along the boundary of said parcel to the northwest comer of parcel 0448-83-9947, thence in a northeasterly direction approximately 293 feet along the boundary of said parcel to the northwest corner of parcel 0448-94-1028, thence in a northeasterly direction approximately 129 feet along the boundary of said parcel to the southwest corner of parcel 0448-94-3456 and parcel 0448-94-1659, thence in a northwesterly direction approximately 546 feet along the boundary of parcel 0448-94-1659 to the southwest corner of parcel 0448-86-1424, thence in a northwesterly direction approximately 2658 feet to the southern right-of-way of Underwood Road, thence continuing with said right-of-way in a westerly direction to the southern right-of-way margin of the railroad, thence in a northeasterly direction approximately 5760 feet to a point in the southern right-of-way margin of the railroad, thence in a westerly direction crossing said right-of-way to the northern right-of-way margin of railroad, said point being the southeast corner of parcel 0459-11-6062, thence in a southwesterly direction along northern right-of-way margin to a corner in parcel 0459-00-8872 said point being the Fayetteville City limit line, thence continuing in a northwesterly direction along Fayetteville City limit line to the eastern right-of-way margin of Custer Avenue, thence in a northeasterly direction with said right-of-way margin approximately 1233 feet to the southwest margin of parcel 0459-01-8688, thence in an easterly direction approximately 570 feet to a point in parcel 0459-00-8872, thence following said Fayetteville City limit line and continuing along the boundary of said parcel to a point in the eastern right-of-way margin of Custer Avenue, thence along said right-of-way in a northeasterly direction approximately 20 feet to the southwestern corner of parcel 0459-12-1180, thence in a southeasterly direction approximately 335 feet to the southeastern corner of said parcel, thence leaving Fayetteville City limit line in a northerly direction approximately 592 feet to the northeastern corner of parcel 0459-12-2384, thence in northwesterly direction approximately 148 feet to the eastern right-of-way margin of Custer Avenue, thence in a northerly direction approximately 1200 feet to the southern right-of-way margin of Albertha Lane, thence crossing said right-of-way in a northerly direction approximately 30 feet to the northern margin of said right-of-way, thence continuing with the eastern right-of-way margin of Custer Avenue in a northerly direction approximately 1420 feet to the northwest corner of parcel 0459-24-0844, thence in a northwesterly direction crossing said right-of-way approximately 60 feet to the southeastern corner of parcel 0459-15-8382, thence in a northwesterly direction approximately 250 feet to the southeastern corner of parcel 0459-16-5754, thence in a northeasterly direction approximately 1375 feet to the

southwestern corner of said parcel, thence in a northeasterly direction approximately 910 feet to the southernmost corner of parcel 0459-07-9324, thence in northwesterly direction approximately 630 feet to a point, thence in westerly direction approximately 100 feet to the southern right-of-way margin of Beard Road, thence in a westerly direction approximately 25 feet to the northeastern corner of parcel 0459-07-2204, thence in a southerly direction approximately 216 feet to the southeast corner of said parcel, thence in a westerly direction approximately 417 feet to the southwest corner of said parcel, thence in a northerly direction approximately 209 feet to the southern right-of-way margin of Beard Road, thence crossing said right-of-way in a northerly direction approximately 60 feet to the northern margin of Beard Road, thence along the northern right-of-way margin of Beard Road in an easterly direction approximately 277 feet to the southeastern corner of parcel 0449-97-9608, thence in a northerly direction approximately 1265 feet to the southwestern corner of parcel 0459-19-2508, thence in a northeasterly direction approximately 5326 feet to the northeastern corner of parcel 0550-23-9439, thence in a northeasterly direction approximately 760 feet to the northwestern corner of parcel 0550-24-5213, thence in an easterly direction approximately 890 feet to the easternmost corner of said parcel, thence in northerly direction approximately 1775 feet to northeastern corner of parcel 0550-34-7419, thence in northeasterly direction approximately 939 feet to a point in the eastern boundary of parcel 0550-25-1550, thence continuing in said boundary in a northeasterly direction approximately 747 feet to the southern right-of-way margin of Callie Road, thence in a northeasterly direction crossing said right-of-way approximately 60 feet to the southwestern corner of parcel 0550-67-4025, thence in a southeasterly direction approximately 120 feet to the eastern right-of-way margin of Rich Walker Road, thence in a northeasterly direction along the eastern right-of-way margin of Rich Walker Road to the Beginning, less and except those parcels annexed into the City limits of Fayetteville, which are identified as follows:

Parcel	Annexation Ordinance Number
0457-11-4779	2005-01-477
0457-11-6881	2005-01-477
0457-21-1811	2005-01-477
0466-46-5692	2007-02-500

(b) For a period of 15 years, beginning on the date the Town of Eastover is incorporated, the Town of Eastover shall not extend its boundaries by annexation or otherwise into any of the following described property:

Area 1- Beginning at a point where the southern right-of-way of the railroad intersects with the southern right-of-way margin of Underwood Road, thence continuing along the southern right-of-way of Underwood Road in an easterly direction approximately 762 feet to a point in the northern boundary of parcel 0448-96-1424, thence in a southerly direction approximately 2658 feet to the northwestern corner of parcel 0448-94-1659, thence in a northeasterly direction approximately 343 feet along the boundary of said parcel to the northwest corner of parcel 0448-95-5005 thence in a northeasterly direction approximately 626 feet to the northeast corner of said parcel, thence in a southerly direction approximately 377 feet along the eastern boundary of said parcel, thence in a northeasterly direction approximately 902 feet along the northern boundary of parcel 0458-04-4981 to the northeast corner of parcel 0458-05-9445 thence in a northeasterly direction approximately 280 feet along the boundary of said parcel to the southwest corner of parcel 0458-07-6181 thence in a northeasterly direction

approximately 1122 feet to the northwest corner of parcel 0458-16-8569, thence in northeasterly direction approximately 575 feet to the western right-of-way margin of Underwood Road, thence in an easterly direction approximately 60 feet to the eastern right-of-way margin of Underwood Road being the southwest corner of parcel 0458-07-6181, thence in a northwesterly direction approximately 400 feet along the western boundary of said parcel to a point in the southern boundary of parcel 0458-17-5864, thence northwesterly along said southern boundary approximately 239 feet to the southwest corner of said parcel, thence northwesterly approximately 30 feet along the southern boundary of parcel 0458-18-8142, said point being the southeast corner of parcel 0458-18-6724, thence along said parcel in a northwesterly direction approximately 30 feet to the southeast corner of parcel 0458-18-0200, thence in a northwesterly direction along the southern boundary of said parcel approximately 830 feet to the southwest boundary of said parcel, thence in a northeasterly direction approximately 119 feet to the southwest corner of parcel 0458-08-7481, thence in a northeasterly direction approximately 119 feet to the northwestern corner of said parcel, thence in a northeasterly direction approximately 21 feet along the western boundary of parcel 0458-18-0200 to the southwestern corner of parcel 0458-08-9513 thence with the western boundary of said parcel approximately 164 feet to the southwestern corner of parcel 0458-18-0614, thence in a northeasterly direction approximately 308 feet to the western corner of parcel 0458-18-1918, thence in a northeasterly direction approximately 208 feet to the western corner of parcel 0458-19-3007, thence along said boundary in northeasterly direction approximately 174 feet to the western corner of parcel 0458-19-4211, thence along said boundary in a northeasterly direction approximately 176 feet to the western corner of parcel 0458-19-5325, thence along said boundary in a northeasterly direction approximately 183 feet to northern corner of said parcel, thence in a southeasterly direction approximately 393 feet along the boundary of said parcel to the northwest corner of parcel 0458-18-6724, thence in a southeasterly direction approximately 644 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-2631, thence in a southeasterly direction approximately 304 feet along the boundary of said parcel to the northwest corner of parcel 0458-28-7262, thence in a southeasterly direction approximately 1564 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-7729, thence in an easterly direction approximately 367 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-9855, thence in an easterly direction approximately 118 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-0876, thence in an easterly direction approximately 121 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-2849, thence in an easterly direction approximately 156 feet along the boundary of said parcel to the northwest corner of parcel 0458-37-3986, thence in an easterly direction approximately 147 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-4996, thence in an easterly direction approximately 104 feet along the boundary of said parcel to the northwest corner of parcel 0458-47-6948, thence in an easterly direction approximately 200 feet along the boundary of said parcel to the northwest corner of parcel 0458-48-8091, thence in an easterly direction approximately 329 feet along the boundary of said parcel to the northwest corner of parcel 0458-58-2068, thence in an easterly direction approximately 113 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4234, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the southwest corner of parcel 0458-58-4487**,** thence in a northeasterly direction approximately 269 feet along

the boundary of said parcel to the southeast corner of parcel 0458-58-3635, thence in a westerly direction approximately 291 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction 146 approximately feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 320 feet along the boundary of said parcel to the western boundary of parcel 0458-58-5675, thence in a northeasterly direction approximately 178 feet along the boundary of said parcel to the northern corner of said parcel, thence in a southeasterly direction approximately 130 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 1661 feet along the western right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 0459-60-2553, thence in a northwesterly direction approximately 593 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 641 feet along the boundary of said parcel to the southwest corner of parcel 0459-60-6819, thence in a northeasterly direction approximately 364 feet along the boundary of said parcel to the southwest corner of parcel 0459-61-7116, thence in a northwesterly direction approximately 200 feet along the boundary of said parcel to the corner of parcel 0459-61-4382, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 213 feet along the boundary of said parcel to the corner of said parcel, thence in a northwesterly direction approximately 136 feet along the boundary of said parcel to the corner of said parcel, thence in a northeasterly direction approximately 449 feet along the boundary of said parcel to the right-of-way of Tucker Rd., thence in a northwesterly direction approximately 34 feet along the right-of-way of Tucker Rd. to the eastern corner of parcel 0459-61-2476, thence in a southwesterly direction approximately 500 feet to the corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the corner of said parcel, thence in a northeasterly direction approximately 350 feet to a point in said parcel, thence in a northwesterly direction approximately 255 feet along the boundary of said parcel to a point in the southern boundary of parcel 0459-51-9893, thence in a northwesterly direction approximately 383 feet to the southwest corner of parcel 0459-51-7999, thence in a northwesterly direction approximately 525 feet to the northern most corner of parcel 0459-52-9250, thence in a southeasterly direction approximately 375 feet to the eastern most corner of parcel 0459-62-1078, thence in a southwesterly direction approximately 215 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-2903, thence in a southeasterly direction approximately 59 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-3815, thence in a southeasterly direction approximately 211 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-4764, thence in a southeasterly direction approximately 170 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-5684, thence in a southeasterly direction approximately 134 feet along the boundary of said parcel to the northwest corner of parcel 0459-61-8416, thence in a southeasterly direction approximately 417 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 180 feet along the right-of-way of Dobbin Holmes Rd., thence in a southeasterly direction approximately 70 feet across the right-of-way of Dobbin Holmes Rd. to the northern corner of parcel 0459-71-1354, thence in a southeasterly direction approximately 154 feet along the boundary of said parcel to the northern corner of parcel 0459-71-2394, thence in a southeasterly direction approximately 149 feet along

the boundary of said parcel to the eastern corner of said parcel, thence in a southwesterly direction approximately 207 feet along the boundary of said parcel to the southeast corner of parcel 0459-71-1354, thence in a southwesterly direction approximately 222 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northeasterly direction approximately 210 feet to a corner of said parcel, thence in a northwesterly direction approximately 51 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a southwesterly direction approximately 493 feet along the right-of-way of Dobbin Holmes Rd. to the northwest corner of parcel 0459-70-0727**,** thence in an easterly direction approximately 149 feet along the boundary of said parcel to a corner of said parcel, thence in a southeasterly direction approximately 301 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southwesterly direction approximately 280 feet along the boundary of said parcel to the northeast corner of parcel 0459-60-8680, thence in a southwesterly direction approximately southernmost corner of said parcel, thence in a northwesterly direction approximately 422 feet to the eastern right-of-way margin of Dobbin Holmes Road, thence in a southwesterly direction approximately 20 feet to the northwest corner of parcel 0459-60-8334, thence in a southeasterly direction approximately 422 feet to a corner of said parcel, thence in a southwesterly direction approximately 41 feet to another corner in said parcel, thence in a southeasterly direction approximately 178 feet along the boundary of said parcel to the corner of said parcel, thence in a southwesterly direction approximately 172 feet along the boundary of said parcel to the boundary of parcel 0458-69-8904, thence in a southwesterly direction approximately 558 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 430 feet along the boundary of said parcel to the corner of parcel 0458-69-5648, thence in a southwesterly direction approximately 283 feet along the boundary of said parcel to a corner of parcel 0458-69-3435, thence in a southwesterly direction approximately 475 feet along the boundary of said parcel to the northeast corner of parcel 0458-69-0031, thence in a southeasterly direction approximately 81 feet along the boundary of said parcel to the northeast corner of parcel 0458-68-0650, thence in a southeasterly direction approximately 702 feet along the boundary of said parcel to the boundary of parcel 0458-67-4970, thence in a northeasterly direction approximately 887 feet along the boundary of said parcel to the northwest corner of parcel 0458-78-8007, thence in a northeasterly direction approximately 506 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-1069, thence in a northeasterly direction approximately 110 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-2272, thence in a northeasterly direction approximately 220 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-3386, thence in a northeasterly direction approximately 120 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-5316, thence in a northeasterly direction approximately 108 feet along the boundary of said parcel to the northwest corner of parcel 0458-88-7543, thence in a northeasterly direction approximately 448 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 105 feet along the boundary of said parcel to the northwest corner of parcel 0458-98-1966, thence in a northeasterly direction approximately 700 feet along the boundary of said parcel to the northwest corner of parcel 0458-99-7126, thence in a northeasterly direction approximately 377 feet along the boundary of said parcel to the northwest corner of parcel 0458-99-6696, thence in a northeasterly direction approximately 210 feet along the boundary of said parcel to the

right-of-way of Tom Geddie Rd., thence in a northeasterly direction approximately 1169 feet along the right-of-way of Tom Geddie Rd. to the southwest corner of parcel 0469-01-1665, thence in a northwesterly direction approximately 1454 feet along the boundary of said parcel to the western corner of said parcel, thence in a northeasterly direction approximately 1707 feet along the boundary of said parcel to the southern boundary of parcel 0469-02-2922, thence in a northwesterly direction approximately 254 feet along the boundary of said parcel to the southeast corner of parcel 0469-93-9138, thence in a northwesterly direction approximately 181 feet along the boundary of said parcel to a corner of parcel 0459-83-5047, thence in a southwesterly direction approximately 1297 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 939 feet along the boundary of said parcel to a corner of said parcel, thence in a southwesterly direction approximately 168 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 129 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 530 feet along the boundary of said parcel and the right-of-way of Dobbin Holmes Rd. to the southwest corner of parcel 059-73-7444, thence in a westerly direction approximately 65 feet the western right-of-way of Dobbin Holmes Rd., thence in a northerly direction approximately 460 feet along the right-of-way of Dobbin Holmes Rd. to the southeast corner of parcel 0459-73-2816, thence in a westerly direction approximately 28 feet along the boundary of said parcel to the eastern corner of parcel 0459-73-2699, thence in a southwesterly direction approximately 106 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the boundary of parcel 0459-73-2816, thence in a southwesterly direction approximately 63 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 332 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northeasterly direction approximately 324 feet along the boundary of said parcel to the western right-of-way of Dobbin Holmes Rd., thence in a northeasterly direction approximately 65 feet to the eastern right-of-way of Dobbin Holmes Rd. and the boundary of parcel 0459-74-4336, thence in a northwesterly direction approximately 407 feet along the boundary of said parcel to the northwest corner of said parcel, thence in a northwesterly direction approximately 480 feet along the right-of-way of Dobbin Holmes Rd. to the northern corner of parcel 0459-64-6403, thence in a southeasterly direction approximately 475 feet along the boundary of said parcel to a point in parcel 0459-74-4336, thence in a southeasterly direction approximately 462 feet along the boundary of said parcel to the northern corner of parcel 0459-74-6101, thence in a southeasterly direction approximately 148 feet along the boundary of said parcel to the right-of-way of Laurent Dr., thence in a southeasterly direction approximately 65 feet to the right-of-way of Laurent Dr. and northern corner of parcel 0459-83-0996, thence in a southeasterly direction approximately 697 feet along the boundary of said parcel to the northern corner of parcel 0459-83-5047, thence in a southeasterly direction approximately 162 feet along the boundary of said parcel to the southwestern corner of parcel 0459-93-2912, thence in a northeasterly direction approximately 214 feet along the boundary of said parcel to the southwestern corner of parcel 0459-94-3379, thence in a northeasterly direction approximately 1393 feet along the boundary of said parcel to the right-of-way of Tom Geddie Rd., thence in a northeasterly direction approximately 113 feet along the right-of-way of Tom Geddie Rd. to the southeast corner of parcel 0459-95-6631, thence

in a northwesterly direction approximately 300 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 154 feet along the boundary of said parcel to a corner of said parcel, thence northwesterly approximately 80 feet to a point in said parcel, thence in a northeasterly direction approximately 547 feet along the boundary of said parcel to the boundary of parcel 0459-96-8053, thence in a northwesterly direction approximately 133 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 208 feet along the boundary of said parcel to the boundary of parcel 0459-96-8329, thence in a northwesterly direction approximately 425 feet along the boundary of said parcel to the railroad right-of-way, thence in a southwesterly direction approximately 1052 feet along the railroad right-of-way, thence in a northwesterly direction approximately 110 feet to the railroad right-of-way and a corner of parcel 0459-86-8451, thence in a northwesterly direction approximately 288 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 376 feet along the boundary of said parcel to the southeastern corner of parcel 0459-86-5839, thence in a northwesterly direction approximately 284 feet along the boundary of said parcel to the southeastern corner of parcel 0459-87-1080, thence in a northwesterly direction approximately 581 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-8310, thence in a northwesterly direction approximately 212 feet along the boundary of said parcel to the southeastern corner of parcel 0459-77-4069, thence in a southwesterly direction approximately 356 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 237 feet along the boundary of said parcel to the right-of-way of Dobbin Holmes Rd., thence in a northwesterly direction approximately 78 feet to the western right-of-way of Dobbin Holmes Rd. and the southern corner of parcel 0459-77-1357, thence in a northwesterly direction approximately 497 feet along the boundary of said parcel to the corner of said parcel also being the right-of-way of Beard Rd., thence in a southeasterly direction approximately 205 feet along the boundary of said parcel to the right-of-way of Beard Rd., thence in a northeasterly direction approximately 164 feet to the corner of parcel 0459-77-4377, thence in a northeasterly direction approximately 70 feet to the northern right-of-way of Beard Rd., thence in a northeasterly direction approximately 117 feet along the right-of-way of Beard Rd. to the corner of parcel 0459-77-6701, thence in a northerly direction approximately 50 feet along the boundary of said parcel to a corner of said parcel, thence in a northeasterly direction approximately 296 feet along the boundary of said parcel to the boundary of parcel 0459-78-5698, thence in a northwesterly direction approximately 841 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a northeasterly direction approximately 741 feet along the boundary of said parcel to the northwestern corner of said parcel 0459-88-1422, thence in a northeasterly direction approximately 2164 feet to a point in parcel 0550-91-3559, thence in a northwesterly direction approximately 30 feet to a point in said parcel, thence in a northeasterly direction approximately 1400 feet to the western right-of-way margin of Callie Road, thence crossing said right-of-way in a northeasterly direction approximately 60 feet to a point in the eastern right-of-way of Callie Road, thence along the eastern right-of-way of said Callie Road in a northwesterly direction approximately 2782 feet to the eastern boundary of parcel 0550-95-1370, thence continuing along said right-of-way in a northwesterly direction approximately 962 feet to the southeastern corner of parcel 0550-86-1065, thence along the southern line of said parcel in a northwesterly direction approximately 1410 feet to a corner of 0550-74-5949, thence

continuing with the northern boundary of Callie Road in a northwesterly direction approximately 610 feet to the southeastern corner of parcel 0550-67-4025, thence in northwesterly direction approximately 1176 feet in the eastern right-of-way of Callie Road and crossing the right-of-way of Rich Walker Road to a point in the boundary of parcel 0550-25-1550, thence in a southwesterly direction crossing said right-of-way approximately 60 feet to a point, thence in a southwesterly direction approximately 747 feet to a point, said point being in the eastern boundary of parcel 0550-25-1550, thence continuing in a southwesterly direction along said eastern boundary approximately 939 feet to the northeastern corner of parcel 0550-34-7419, thence in southerly direction approximately 1775 feet to the eastern most corner of parcel 0550-24-5213, thence in a northwesterly direction approximately 890 feet to the northern most corner of said parcel, thence in a southerly direction approximately 760 feet to the northwest corner of parcel 0550-23-9439, thence in a southerly direction approximately 5326 feet to the southwestern corner of parcel 0459-19-2508, thence in a southerly direction approximately 1265 feet to the northern right-of-way of Beard Road said point being the southeastern corner of parcel 0449-97-9608, thence along the northern right-of-way margin of Beard Road in a westerly direction approximately 277 feet to a point in the southern boundary of said parcel, thence crossing Beard Road in a southerly direction approximately 60 feet to the northwestern corner of parcel 0459-07-2204, thence in a southerly direction approximately 209 feet to the southwest corner of said parcel, thence in an easterly direction approximately 416 feet to the southeast corner of said parcel, thence in a northerly direction approximately 216 feet to the right-of-way margin of Beard Road, continuing along the southern right-of-way margin of Beard Road in an easterly direction approximately 25 feet to the northwest corner of parcel 0459-07-9324, thence in an easterly direction approximately 100 feet to a point in the boundary of said parcel, thence in a southeasterly direction approximately 630 feet along the western boundary line of said parcel to a point in the western boundary line of parcel 0459-16-5754, thence along the western boundary line of said parcel in a southwesterly direction approximately 910 feet to the southwest corner of said parcel, thence along the southern boundary line of said parcel in a southeasterly direction approximately 1375 feet to the southwest corner of parcel 0459-15-8382, thence along the southern boundary of said parcel in a southeasterly direction approximately 250 feet to the western right-of-way margin of Custer Avenue, thence easterly crossing the right-of-way of Custer Avenue approximately 60 feet to the eastern right-of-way of Custer Avenue, said point being the northwest corner of parcel 0459-24-0844, thence along the eastern right-of-way of Custer Avenue in a southwesterly direction approximately 1420 feet to the northern right-of-way margin of Albertha Lane said point also being in the eastern margin of Custer Avenue, thence in a southwesterly direction crossing said right-of-way approximately 30 feet to the northwestern corner of parcel 0459-13-8651, thence along right-of-way of Custer Avenue in a southwesterly direction approximately 1200 feet to a point in the western boundary of parcel 0459-12-9051, thence in a southeasterly direction approximately 148 feet to the northeastern corner of parcel 0459-12-2384, thence in a southwesterly direction approximately 1162 feet to a point in the southern boundary of parcel 0459-12-9051, thence in a northwesterly direction approximately 117 feet to the northwest corner of parcel 0459-11-1417, thence in a southwesterly direction approximately 116 feet to the southwest corner of said parcel, thence in a southeasterly direction approximately 200 feet to a point in the western boundary of parcel 0459-11-6062, thence in a southeasterly direction approximately 410 feet to a corner in said parcel, thence in

southwesterly direction approximately 506 feet to a corner in the southern boundary of said parcel, thence in a southeasterly direction approximately 540 feet to the northern right-of-way of the railroad, thence in a northeasterly direction approximately 300 feet to the northern most corner of parcel 0458-09-5196 said point also being in the southern right-of-way of railroad, thence in a southwesterly direction along the southern right-of-way margin of railroad approximately 5760 feet to the Beginning.

Area 2 – Beginning at a point, said point being the intersection of the northern right-of-way of Murphy Road with the western right-of-way margin of Baywood Road, thence in a southerly direction approximately 200 feet crossing right-of-way of Murphy Road to the northeast corner of parcel 0468-91-7627, thence in a southwesterly direction approximately 408 feet to the northeast corner of parcel 0468-91-9494, thence in a southerly direction approximately 300 feet to the northeast corner of parcel 0468-91-9087, thence in a southerly direction approximately 400 feet along the western right-of-way of Baywood Rd., thence in an easterly direction to the northwest corner of parcel 0478-00-3637, thence in an easterly direction approximately 400 feet along the northern boundary of said parcel, thence in a southerly direction approximately 290 feet along the easterly boundary of said parcel, thence in a southwesterly direction approximately 150 feet along the southern boundary of said parcel, thence in a northwesterly direction approximately 55 feet to the northeast corner of parcel 0478-00-2411, thence in a southwesterly direction approximately 218 feet along the eastern boundary of said parcel, thence in a northwesterly direction approximately 200 feet along the southern boundary of said parcel to the eastern right-of-way of Baywood Rd., thence in a westerly direction approximately 60 feet to the western right-of-way of Baywood Rd. said point also being the northeast corner of parcel 0468-90-9226, thence in a southwesterly direction approximately 218 feet along the eastern boundary of said parcel to the corner of parcel 0468-90-4773, thence in a southwesterly direction approximately 267 feet along the eastern boundary of said parcel to the northeast corner of parcel 0468-99-7621, thence approximately 60 feet in a northeasterly direction to the northwest corner of parcel 0477-09-1605, thence in a northeasterly direction approximately 295 feet along the boundary of said parcel to the northwest corner of parcel 0477-09-4389, thence in a northeasterly direction approximately 320 feet along the boundary of said parcel to the northwest corner of parcel 0477-09-9650, thence in a northeasterly direction approximately 397 feet along the boundary of said parcel to the northwest corner of parcel 0477-19-3770, thence in a northeasterly direction approximately 478 feet along the boundary of said parcel to the northwest corner of parcel 0478-10-7001, thence in a northeasterly direction approximately 318 feet along the boundary of said parcel to the northwest corner of parcel 0478-20-2237, thence in a northeasterly direction approximately 414 feet along the boundary of said parcel to the northwest corner of parcel 0478-20-5046, thence in a northeasterly direction approximately 528 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southeasterly direction approximately 977 feet along the boundary of said parcel to the northeast corner of parcel 0477-29-8523, thence in a southeasterly direction approximately 209 feet along the boundary of said parcel to the northeast corner of parcel 0477-29-9412, thence in a southeasterly direction approximately 36 feet along the boundary of said parcel to the northeastern right-of-way of Sanderosa Rd., thence approximately 70 feet in a southeasterly direction to the southern right-of-way of Sanderosa Rd. and corner of parcel 0477-29-9412, thence in a southeasterly direction approximately 1155 feet along the boundary of said parcel to a point in the northern boundary of parcel 0477-38-3113, thence in a southeasterly direction for approximately

191 feet along the boundary of said parcel to the northwest corner of parcel 0477-38-4190, thence in a southeasterly direction for approximately 167 feet along the boundary of said parcel to the northwest corner of parcel 0477-37-5080, thence in a southeasterly direction for approximately 158 feet to the northeast corner of said parcel, thence in a southerly direction for approximately 115 feet along the boundary of said parcel to the northwest corner of parcel 0477-37-7998, thence in an easterly direction for approximately 129 feet along the boundary of said parcel to the northwest corner of parcel 0477-37-9926, thence in an easterly direction for approximately 148 feet along the boundary of said parcel to the northwest corner of parcel 0477-47-0963, thence in an easterly direction for approximately 213 feet along the boundary of said parcel to the northeast corner of parcel 0477-47-1866, thence in a southeasterly direction for approximately 168 feet along the boundary of said parcel to the northern most corner of parcel 0477-47-2703, thence in a southeasterly direction for approximately 146 feet along the boundary of said parcel to the northeastern corner of parcel 0477-47-2631, thence in a southeasterly direction for approximately 140 feet along the boundary of said parcel to the northeastern corner of parcel 0477-47-2449, thence in a southeasterly direction for approximately 119 feet along the boundary of said parcel to the northeastern corner of parcel 0477-47-2378, thence in a southeasterly direction for approximately 112 feet along the boundary of said parcel to the northeastern corner of parcel 0477-47-2296, thence in a southeasterly direction for approximately 115 feet along the boundary of said parcel to the northeastern corner of parcel 0477-47-3125, thence in a southeasterly direction for approximately 115 feet along the boundary of said parcel to the northeastern corner of parcel 0477-47-3044, thence in a southeasterly direction for approximately 117 feet along the boundary of said parcel to the northeastern corner of parcel 0477-46-3972, thence in a southeasterly direction for approximately 154 feet along the boundary of said parcel to the northeastern corner of parcel 0477-46-3799, thence in a southerly direction for approximately 121 feet along the boundary of said parcel to the northeastern corner of parcel 0477-46-4607, thence in a southeasterly direction for approximately 118 feet along the boundary of said parcel to the northeastern corner of parcel 0477-46-4505, thence in a southerly direction for approximately 117 feet along the boundary of said parcel to the northeast corner of parcel 0477-46-4412, thence in a southerly direction for approximately 153 feet along the boundary of said parcel to a point in the northern boundary of parcel 0477-46-4234, thence in an easterly direction for approximately 25 feet along the boundary of said parcel to the northwest corner of parcel 0477-46-5254, thence in an easterly direction for approximately 131 feet along the boundary of said parcel to the northwest corner of parcel 0477-46-6275, thence in an easterly direction for approximately 162 feet along the boundary of said parcel to the northwest corner of parcel 0477-46-7178, thence in an easterly direction for approximately 50 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southerly direction for approximately 254 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7959, thence in a southerly direction for approximately 186 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7757, thence in a southerly direction for approximately 206 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7557, thence in a southerly direction for approximately 226 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-7257, thence in a southerly direction for approximately 360 feet along the boundary of said parcel to the northeast corner of parcel 0477-45-6041, thence in a southerly direction for approximately 145 feet along the boundary of said parcel to the northeast corner of

parcel 0477-44-8801, thence in a southerly direction for approximately 56 feet along the boundary of said parcel to another corner of said parcel, thence in an easterly direction for approximately 68 feet along the boundary of said parcel to the northwest corner of parcel 0477-44-9820, thence in an easterly direction for approximately 107 feet along the boundary of said parcel to the northwest corner of parcel 0477-54-0830, thence in an easterly direction for approximately 47 feet along the boundary of said parcel to the northwest corner of parcel 0477-54-1852, thence in an easterly direction for approximately 192 feet along the boundary of said parcel to the northwest corner of parcel 0477-54-3708, thence in an easterly direction for approximately 120 feet along the boundary of said parcel to the northeast corner of said parcel, thence in a southerly direction for approximately 210 feet along the boundary of said parcel to the northeast corner of parcel 0477-54-3509, thence in a southerly direction for approximately 245 feet along the boundary of said parcel to the northeast corner of parcel 0477-54-2333, thence in a southerly direction for approximately 124 feet along the boundary of said parcel to the northeast corner of parcel 0477-54-2175, thence in a southerly direction for approximately 335 feet along the boundary of said parcel to a corner of parcel 0477-54-1072, thence in a southerly direction for approximately 46 feet along the eastern boundary of said parcel to the southeast corner of said parcel, thence in a westerly direction for approximately 301 feet along the boundary of said parcel to the southeast corner of parcel 0477-54-0006, thence in a westerly direction for approximately 112 feet along the boundary of said parcel to the southeast corner of parcel 0477-44-8087, thence in a westerly direction for approximately 119 feet along the boundary of said parcel to the southeast corner of parcel 0477-44-7077, thence in a westerly direction for approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6887, thence in a southwesterly direction for approximately 170 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6688, thence in a southwesterly direction for approximately 308 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6415, thence in a southwesterly direction for approximately 54 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6343, thence in a southwesterly direction for approximately 214 feet along the boundary of said parcel to the northeast corner of parcel 0477-43-6117, thence in a southwesterly direction for approximately 208 feet along the boundary of said parcel to the northeast corner of parcel 0477-42-5823, thence in a southwesterly direction for approximately 187 feet along the boundary of said parcel to the northeast corner of parcel 0477-42-5710, thence in a southwesterly direction for approximately 206 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-4626, thence in a northwesterly direction for approximately 206 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-3637, thence in a northwesterly direction for approximately 98 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-2751, thence in a northwesterly direction for approximately 88 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-2840, thence in a northwesterly direction for approximately 81 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-1863, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0895, thence in a northwesterly direction for approximately 76 feet along the boundary of said parcel to the southeast corner of parcel 0477-42-0839, thence in a northwesterly direction for approximately 26 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-9868, thence in a northwesterly direction for approximately 74 feet along the

boundary of said parcel to the southeast corner of parcel 0477-32-8889, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-8910, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7931, thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-7901 thence in a northwesterly direction for approximately 75 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-6912, thence in a northwesterly direction for approximately 80 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-5942, thence in a northwesterly direction for approximately 59 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-4962, thence in a northwesterly direction for approximately 165 feet along the boundary of said parcel to the southeast corner of parcel 0477-32-3957, thence in a northwesterly direction for approximately 83 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northerly direction for approximately 130 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3150, thence in a northerly direction for approximately 214 feet along the boundary of said parcel to the southwest corner of parcel 0477-32-3262, thence in a northerly direction for approximately 132 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3465, thence in a northerly direction for approximately 242 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3549, thence in a northerly direction for approximately 35 feet along the boundary of said parcel to the southwest corner of parcel 0477-33-3679, thence in a northerly direction for approximately 183 feet along the boundary of said parcel to a southwest corner of parcel 0477-35-3203, thence in a northerly direction for approximately 85 feet along the boundary of said parcel, thence in a northwesterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 1130 feet along the boundary of said parcel to a southeast corner of parcel 0477-25-9270, thence in a westerly direction approximately 260 feet to the western right-of-way of Bobby Jones Dr., thence in a westerly direction approximately 169 feet to the southwestern corner of parcel 0477-25-7255, thence in a westerly direction approximately 149 feet along the southern boundary of parcel 0477-25-6205 to the southeastern corner of parcel 0477-25-4274, thence in a westerly direction approximately 121 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-3254, thence in a westerly direction approximately 125 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-2213, thence in a westerly direction approximately 171 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-25-0276, thence in a northwesterly direction approximately 152 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-9340, thence in a northwesterly direction approximately 127 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-8334, thence in a northwesterly direction approximately 119 feet along the southern boundary of said parcel to the southeastern corner of parcel 0477-15-7318, thence in a northwesterly direction approximately 123 feet along the southern boundary of said parcel to the northeastern corner of parcel 0477-15-3242, thence in a southwesterly direction approximately 345 feet along the eastern boundary of said parcel to the northeastern corner of parcel 0477-14-3586, thence in a southwesterly direction approximately 895 feet along the eastern boundary of said parcel to the southeastern corner of said parcel and the northern right-of-way of Hummingbird Pl., thence in a

northwesterly direction approximately 220 feet along the boundary of said parcel to the southeastern corner of parcel 0477-14-1657, thence in a northwesterly direction approximately 262 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-9015, thence in a northwesterly direction approximately 28 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-8591, thence in a northwesterly direction approximately 155 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-8752, thence in a northwesterly direction approximately 23 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-7547, thence in a northwesterly direction approximately 132 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7676, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-7418, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-05-4579, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-5664, thence in a northwesterly direction approximately 158 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-4702, thence in a northwesterly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-2778, thence in a northwesterly direction approximately 119 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1933, thence in a northwesterly direction approximately 20 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-1625, thence in a northwesterly direction approximately 77 feet along the boundary of said parcel to the southeastern corner of parcel 0477-04-0637, thence in a northwesterly direction approximately 105 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-9877, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-8862, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-7703, thence in a northwesterly direction approximately 245 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 57 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-4732, thence in a northwesterly direction approximately 183 feet along the boundary of said parcel to the southeastern corner of parcel 0467-94-2765, thence in a northwesterly direction approximately 176 feet along the boundary of said parcel to the southeastern corner of parcel 0467-95-3265, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southeastern corner of parcel 0467-84-9738, thence in a northwesterly direction approximately 147 feet along the boundary of said parcel to the southwestern corner of said parcel, thence on a southwesterly direction approximately 125 feet across the intersection of Baywood Rd. and Hummingbird Pl. to the northeastern corner of parcel 0467-84-5548, thence in a southerly direction approximately 224 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-5317, thence in a southerly direction approximately 250 feet along the boundary of said parcel to the northeast corner of parcel 0467-84-6034, thence in a southwesterly direction approximately 325 feet along the boundary of said parcel to the southeast corner of said parcel and right-of-way of Sulky Circle, thence in a southwesterly direction approximately 80 feet across Sulky Circle to the northeast corner of parcel 0467-83-4633, thence in a southwesterly direction approximately 410 feet along the boundary of said parcel to the northeast corner of parcel 0467-83-1337, thence in a

southwesterly direction approximately 364 feet along the boundary of said parcel to the northeast corner of parcel 0467-83-0021, thence in a southwesterly direction approximately 320 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9797, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9687, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9566, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9456, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-82-0236, thence in a southwesterly direction approximately 238 feet along the boundary of said parcel to the northeast corner of parcel 0467-72-9042, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the northeast corner of parcel 0467-81-0908, thence in a southwesterly direction approximately 100 feet along the boundary of said parcel to the southeast corner of said parcel and the northern right-of-way of West Frontier Ave., thence in a southwesterly direction approximately 65 feet across West Frontier Ave. to the southern right-of-way of West Frontier Ave. and the northeast corner of parcel 0467-71-9891, thence in a southwesterly direction approximately 90 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-9602, thence in a southwesterly direction approximately 113 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8581, thence in a southwesterly direction approximately 112 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8471, thence in a southwesterly direction approximately 107 feet along the boundary of said parcel to the northeast corner of parcel 0467-71-8291, thence in a southwesterly direction approximately 197 feet along the boundary of said parcel to the southeast corner of said parcel and northern right-of-way of Pleasant View Dr., thence in a southwesterly direction approximately 90 feet to the southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 410 feet along the right-of-way of Pleasant View Dr. to the northeast corner of parcel 0467-71-3142, thence in a southwesterly direction approximately 405 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a northwesterly direction approximately 188 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-1136, thence in a northwesterly direction approximately 178 feet along the boundary of said parcel to the southeastern corner of parcel 0467-71-0353, thence in a northwesterly direction approximately 135 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-9450, thence in a northwesterly direction approximately 117 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-8596, thence in a northwesterly direction approximately 26 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-7506, thence in a northwesterly direction approximately 274 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-6713, thence in a northwesterly direction approximately 100 feet along the boundary of said parcel to the southeastern corner of parcel 0467-61-5769, thence in a northwesterly direction approximately 10 feet along the boundary of said parcel to a point in the eastern boundary of parcel 0467-61-1721, thence in a southerly direction along the boundary of said parcel to the southeastern corner of said parcel, thence in a westerly direction approximately 574 feet along the boundary of said parcel to the southeastern corner of parcel 0467-52-8171, thence in a westerly direction approximately 167 feet along the boundary of said parcel to the southeastern corner of

parcel 0467-52-6174, thence in a westerly direction approximately 188 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 639 feet along the boundary of said parcel to the southeastern boundary of parcel 0467-52-3563, thence in a southwesterly direction approximately 230 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8194, thence in a southwesterly direction approximately 48 feet along the boundary of said parcel to the northeast corner of parcel 0467-42-8070, thence in a southwesterly direction approximately 241 feet along the boundary of said parcel to the northeast corner of parcel 0467-41-7863, thence in a southwesterly direction approximately 463 feet along the boundary of said parcel to the southeast corner of parcel 0467-41-4676, thence in a southwesterly direction approximately 432 feet along the boundary of said parcel to the southwest corner of said parcel, thence in a northwesterly direction approximately 215 feet along the boundary of said parcel to the southwest corner of parcel 0467-41-3941, thence in a northwesterly direction approximately 482 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3146, thence in a northwesterly direction approximately 190 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-3318, thence in a northwesterly direction approximately 327 feet along the boundary of said parcel to the southwest corner of parcel 0467-42-2692, thence in a northwesterly direction approximately 269 feet along the boundary of said parcel to the southeast corner of parcel 0467-33-9030, thence in a westerly direction approximately 225 feet along the boundary of said parcel to the southeast corner of parcel 0467-32-6967, thence in a westerly direction approximately 270 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Pleasant View Dr., thence in a westerly direction approximately 65 feet across the right-of-way of Pleasant View Dr. to the southeast corner of parcel 0467-32-3985, thence in a southwesterly direction approximately 539 feet along the western right-of-way of Pleasant View Dr to the boundary of parcel 0467-22-9726, thence in a southeasterly direction approximately 117 feet across the right-of-way of Pleasant View Dr. to the eastern right-of-way of Pleasant View Dr. and a corner of parcel 0467-22-9726, thence in a southeasterly direction approximately 1227 feet along the boundary of said parcel to the southeastern corner of said parcel, thence in a southwesterly direction approximately 354 feet along the boundary of said parcel to the southeast corner of parcel 0467-22-6379, thence in a southwesterly direction approximately 390 feet along the boundary of said parcel to the southeast corner of parcel 0467-22-3161, thence in a southwesterly direction approximately 442 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-7795, thence in a southwesterly direction approximately 125 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-4671, thence in a southwesterly direction approximately 289 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 410 feet along the boundary of said parcel to the southeast corner of parcel 0467-20-0546, thence in a northwesterly direction approximately 198 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-8544, thence in a northwesterly direction approximately 179 feet along the boundary of said parcel to the southeast corner of parcel 0467-10-6543, thence in a northwesterly direction approximately 156 feet along the boundary of said parcel to the northwest corner of said parcel and southern right-of-way of Pleasant View Dr., thence in a northwesterly direction approximately 175 feet across the right-of-way of Pleasant View Dr. to the northern right-of-way of Pleasant View Dr. and southeast corner of parcel 0467-10-1980, thence

in a westerly direction approximately 257 feet along the boundary of said parcel to the southwest corner of said parcel and the eastern right-of-way of Rock Hill Rd., thence in a southwesterly direction approximately 155 feet across the right-of-way of Rock Hill Rd. to the western right-of-way of Rock Hill Rd. and the southeast corner of parcel 0467-00-8637, thence in a southwesterly direction approximately 242 feet along the boundary of said parcel to the southern corner of said parcel, thence in a northwesterly direction approximately 110 feet along the boundary of said parcel to the southwest corner of said parcel and eastern right-of-way of Poplar Hill Rd., thence in a westerly direction approximately 130 feet across the right-of-way of Poplar Hill Rd. to the southeastern corner of parcel 0467-00-4718, thence in a northwesterly direction approximately 324 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northeasterly direction approximately 215 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a southeasterly direction approximately 280 feet along the boundary of said parcel to the northeastern corner of said parcel and western right-of-way of Poplar Hill Rd., thence in a northwesterly direction approximately 535 feet along the western right-of-way of Poplar Hill Rd., thence in a northeasterly direction approximately 344 feet along the western right-of-way of Poplar Hill Rd., to the southeastern corner of parcel 0467-01-2835, thence in a southwesterly direction approximately 418 feet along the boundary of said parcel to the southeastern corner of parcel 0457-92-9476, thence in a southwesterly direction approximately 453 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northwesterly direction approximately 103 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 523 feet along the boundary of said parcel to a corner of said parcel, thence in a northwesterly direction approximately 70 feet along the boundary of said parcel to the westernmost corner of said parcel, thence in a northeasterly direction approximately 1091 feet along the boundary of said parcel to the southwestern corner of parcel 0457-83-9229, thence in a northeasterly direction approximately 200 feet along the boundary of said parcel to the northwestern corner of said parcel, thence in a westerly direction approximately 570 feet across the right-of-way of Interstate 95 to the southeastern corner of parcel 0457-84-7040, thence in a westerly direction approximately 835 feet along the boundary of said parcel to the southeastern corner of parcel 0457-84-3036, thence in a westerly direction approximately 373 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-9036, thence in a westerly direction approximately 456 feet along the boundary of said parcel to the southeastern corner of parcel 0457-74-4018, thence in a westerly direction approximately 641 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 1111 feet along the boundary of said parcel to the boundary line of parcel 0457-75-3060, thence westerly approximately 76 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 688 feet along the boundary of said parcel to a point in the southern boundary of parcel 0457-75-2756, thence in a northerly direction approximately 200 feet to a point in the boundary of said parcel, thence in a westerly direction approximately 343 feet along the boundary of said parcel, thence in a northerly direction approximately 273 feet along the boundary of said parcel, thence in a easterly direction approximately 175 feet along the boundary of said parcel, thence in a northerly direction approximately 196 feet along the boundary of said parcel to the southwestern corner of parcel 0457-76-2501, thence in a northerly direction approximately 362 feet along the boundary of said parcel to the

southeastern corner of parcel 0457-66-6642, thence in a westerly direction approximately 265 feet along the boundary of said parcel to the southwestern corner of said parcel, thence in a northerly direction approximately 478 feet along the boundary of said parcel to the southwest corner of parcel 0457-66-6917, thence in a northerly direction approximately 185 feet along the boundary of said parcel to the southwest corner of parcel 0457-67-8466, thence in a northerly direction approximately 890 feet along the boundary of said parcel to the southwest corner of parcel 0457-78-5347, thence in a northerly direction approximately 527 feet along the boundary of said parcel, thence in a westerly direction approximately 109 feet along the boundary of said parcel to the southeast corner of parcel 0457-69-3083, thence in a northerly direction along the eastern boundary of said parcel approximately 295 feet to a point in said parcel, thence in an easterly direction approximately 88 feet to a point in the eastern boundary of said parcel, thence in a northerly direction along the eastern boundary of said parcel approximately 758 feet to the southeast corner of parcel 0457-69-4724, thence along the eastern boundary of said parcel in a northerly direction approximately 368 feet to the southeast corner of parcel 0458-60-4021, thence along the eastern boundary of said parcel in a northerly direction approximately 178 feet to the southeastern corner of parcel 0458-60-4204, thence along the eastern boundary of said parcel in a northerly direction approximately 286 feet to the southeastern corner of parcel 0458-60-3592, thence along the eastern boundary of said parcel in a northerly direction approximately 293 feet to the southeastern corner of parcel 0458-60-3788, thence along the eastern boundary of said parcel in a northerly direction approximately 268 feet to the southeastern corner of parcel 0458-61-3005, thence along the eastern boundary of said parcel in a northerly direction approximately 112 feet to the southeastern corner of parcel 0458-61-4049, thence along the eastern boundary of said parcel in a northerly direction approximately 105 feet to the southeastern corner of parcel 0458-61-4240, thence along the eastern boundary of said parcel in a northerly direction approximately 105 feet to the southeastern corner of parcel 0458-61-3440, thence along the eastern boundary of said parcel in a northerly direction approximately 330 feet to the southeastern corner of parcel 0458-61-4648, thence along the eastern boundary of said parcel in a northerly direction approximately 95 feet to the southwestern corner of parcel 0458-61-7967, thence in an easterly direction approximately 161 feet to the southeastern corner of said parcel, thence crossing parcel 0458-61-7782 in an easterly direction approximately 60 feet to the southwestern corner of parcel 0458-61-9831, thence in an easterly direction approximately 310 feet to the southwestern corner of parcel 0458-72-0025, thence in an easterly direction approximately 179 feet to the southwestern corner of parcel 0458-71-5934, thence in an easterly direction approximately 601 feet to a point in the western boundary of parcel 0458-81-0757, thence in a southeasterly direction approximately 652 feet to a point in the southern boundary of said parcel, thence along the southern boundary of said parcel in an easterly direction approximately 10 feet to the southwestern corner of parcel 0458-81-3678, thence in a northeasterly direction approximately 435 feet to the northwestern corner of parcel 0458-91-3073, thence in a southerly direction approximately 688 feet to a point in the western boundary of said parcel, thence in a westerly direction approximately 327 feet to the northwestern corner of parcel 0458-90-5360, thence in a southeasterly direction along western boundary of said parcel approximately 543 feet to the northern corner of parcel 0457-89-5961, thence in a southerly direction approximately 379 feet to the southwest corner of said parcel, thence in a southerly direction approximately 1940 feet to the southwestern corner of parcel 0457-98-3830, thence in an easterly direction

approximately 1463 feet to the western right-of-way margin of Rock Hill Road, thence crossing in an easterly direction said right-of-way approximately 50 feet to a point in the southern boundary of said parcel, thence in an easterly direction approximately 1222 feet to the western right-of-way margin of I-95 South, thence crossing in an easterly direction right-of-way of I-95 South, I-95 North and White Plains Drive approximately 550 feet to the southwest corner of parcel 0467-17-9881, thence in a northeasterly direction along the eastern right-of-way margin of White Plains Drive approximately 445 feet to the southwestern corner of parcel 0467-28-0282, thence continuing along said right-of-way in a northeasterly direction approximately 383 feet to the northwestern corner of parcel 0467-28-1446, thence in a westerly direction approximately 30 feet to the southwestern corner of parcel 0437-28-1549, thence in a northeasterly direction along the right-of-way of White Plains Drive approximately 1120 feet to a point in the southern boundary of parcel 0467-39-4168, thence in a westerly direction approximately 51 feet to the southwest corner of said parcel, thence in northeasterly direction approximately 465 feet to the southwest corner of parcel 0467-49-1752, thence in northeasterly direction approximately 484 feet to a point in the western boundary of parcel 0468-31-5006, thence in a northeasterly direction approximately 137 feet to the southwestern corner of parcel 0468-31-2137, thence in a northeasterly direction approximately 310 feet to the southwestern corner of parcel 0468-31-2414, thence in a northeasterly direction approximately 401 feet to the southwestern corner of parcel 0468-21-9783, thence in a northeasterly direction approximately 360 feet to the southwestern corner of parcel 0468-32-0243, thence in a northeasterly direction approximately 1167 feet to the northwestern corner of parcel 0468-32-3840, thence in a northeasterly direction approximately 660 feet to a point in the northernmost corner of said parcel, thence in a northeasterly direction crossing Sanderosa Road to a point in the western boundary of parcel 0468-43-2118, thence in a northeasterly direction approximately 400 feet to the southwest corner of parcel 0468-44-1177, thence along the western boundary of said parcel in a northeasterly direction approximately 101 feet to a point in the western boundary of said parcel, thence in a northeasterly direction along the right-of-way margin of Sanderosa Road approximately 567 feet to the northwest corner of said parcel, thence in a northeasterly direction approximately 205 feet to a point in the western boundary of parcel 0468-53-6023, thence in a northeasterly direction approximately 173 feet to the intersection of Murphy Road and Sanderosa Road, thence in southwesterly direction approximately 160 feet to the southwestern corner of parcel 0468-44-5545, thence in southeasterly direction approximately 80 feet to the southeastern corner of said parcel, thence in a northeasterly direction approximately 209 feet to a point in the southern right-of-way margin of Murphy Road, thence continuing in a southeasterly direction approximately 123 feet to the northwest corner of parcel 0468-44-9465, thence in a southwesterly direction approximately 115 feet to the southwest corner of said parcel, thence in a southeasterly direction approximately 360 feet to the western right-of-way margin of Creek Bottom Trail, thence crossing said right-of-way in an easterly direction approximately 75 feet to the southwestern corner of parcel 0468-54-3373, thence in an easterly direction approximately 442 feet to the northern corner of parcel 0468-54-6056, thence in a southeasterly direction approximately 419 feet to the southwestern corner of parcel 0468-53-8949, thence in a southeasterly direction approximately 327 feet to the southwest corner of parcel 0468-63-0951, thence in a southeasterly direction approximately 151 feet to the southwest corner of parcel 0468-63-1874, thence in a southeasterly direction approximately 140 feet to the southwest corner of parcel

0468-63-2789, thence in a southeasterly direction approximately 105 feet to the southwest corner of parcel 0468-63-3793, thence in a southeasterly direction approximately 80 feet to the southwest corner of parcel 0468-63-4686, thence in a southeasterly direction approximately 78 feet to a corner of parcel 0468-61-9999, thence in a northeasterly direction approximately 937 feet to a point in the southern right-of-way margin of Murphy Road, thence continuing along said right-of-way in a southeasterly direction approximately 22 feet to the northwest corner of parcel 0468-63-8638, thence in a southerly direction approximately 343 feet to the southwest corner of said parcel, thence in a southeasterly direction approximately 377 feet to the southeast corner of said parcel, thence southeasterly direction approximately 214 feet to the southwest corner of said parcel, thence in a northeasterly direction approximately 90 feet to a corner of parcel 0468-73-3209, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-73-4137, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-73-5054, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-72-6973, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-72-8801, thence in a southeasterly direction approximately 170 feet to a corner of parcel 0468-72-9720, thence in a southeasterly direction approximately 170 feet to a point in the boundary of parcel 0468-81-0994, thence in a northeasterly direction approximately 258 feet to a point in the southern right-of-way margin of Murphy Road, thence along said right-of-way in a southeasterly direction approximately 110 feet to the northernmost corner of parcel 0468-82-2660, thence in a southeasterly direction approximately 155 feet to the southern most corner of said parcel, thence in a northeasterly direction approximately 165 feet to the southern right-of-way margin of Murphy Road, thence along said right-of-way margin in a southeasterly direction approximately 198 feet to the northeastern corner of parcel 0468-82-6318, thence in a southwesterly direction approximately 250 feet to the southwestern corner of said parcel, thence in a southeasterly direction approximately 170 feet to the southwestern corner of parcel 0468-82-7373, thence in a southeasterly direction approximately 170 feet to the southwestern corner of parcel 0468-82-9238, thence in a southeasterly direction approximately 170 feet to the southwestern corner of parcel 0468-92-0292, thence in a southeasterly direction approximately 171 feet to the southeastern corner of said parcel, thence in a northeasterly direction approximately 225 feet to the southern right-of-way margin of Murphy Road, thence with said right-of-way margin approximately 90 feet to the northwestern corner of parcel 0468-92-3192, thence in a southwesterly direction approximately 224 feet to the southwestern corner of said parcel, thence in southeasterly direction approximately 285 feet to the southeastern corner of said parcel, thence in a northeasterly direction approximately 290 feet to the southern right-of-way margin of Murphy Road, thence crossing right-of-way of Murphy Road approximately 60 feet to the southwestern corner of parcel 0468-93-8406, thence in a southeasterly direction approximately 204 feet to a point in the western boundary of parcel 0478-02-0310, thence in a southerly direction approximately 10 feet to the southwestern corner of said parcel, thence in a southeasterly direction approximately 227 feet to a point, thence in a northeasterly direction approximately 74 feet to the point of Beginning.

(c) The Town of Eastover acknowledges that, notwithstanding the provisions of G.S. 160A-58.1(b)(2), the City of Fayetteville may annex all or any portion of the property described in subsections (a) and (b) of this section without entering into an annexation agreement with the Town of Eastover.

(d) The Town of Eastover does not object to the property described in subsections (a) and (b) of this section being included in the City of Fayetteville's Municipal Influence Area to the extent any Municipal Influence Area is created by agreement of the City of Fayetteville and Cumberland County.

"ARTICLE III. GOVERNING BODY.

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

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2007 provided for by Section 4.1 of this Charter, Charles G. McLaurin is hereby appointed Mayor and Benny Pearce, Sara Piland, Rupert Tatum, Jr., Lawrence Buffaloe, Cheryl Hudson, and Willie Geddie are appointed council members of the Town of Eastover, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. The temporary officers shall elect one of their members to serve as Mayor Pro Tempore until the organizational meeting after the initial election in 2007. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2007.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2007, the three candidates receiving the highest numbers of votes shall be elected to four-year terms and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2009, and quadrennially thereafter, three members shall be elected to four-year terms. In 2011, and quadrennially thereafter, three members shall be elected to four-year terms. To be eligible for election to the Town Council, an individual must reside in the Town of Eastover. Vacancies on the Town Council shall be filled in accordance with G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Town shall elect the Mayor. In 2007, and biennially thereafter, the Mayor shall be elected for a term of two years. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to matters involving the Town of Eastover, and shall have the right to vote as a member of the Town Council on all matters before the Council, but shall have no right to break a tie vote in which the Mayor has participated.

"Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The Mayor Pro Tempore shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2007, and shall serve for a term of two years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of the Town Council present may elect a temporary chair to preside in the absence. The Mayor Pro Tempore shall have the right to vote on all matters before the Town Council and shall be considered a member of the Town Council for all purposes.

"Section 3.6. **Compensation of Mayor and Town Council.** The Mayor and members of the Town Council shall be reimbursed for ordinary and necessary expenses.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager plan as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Manager; Appointment; Power and Duties.** The Town Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government, except as otherwise directed by the Town Council. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Town Council, so far as authorized by general law.

"Section 5.3. **Town Manager's Authority Over Personnel; Role of Elected Officials.** As chief administrator of the Town, the Town Manager shall have the power to appoint, suspend, and remove all Town officers, department heads, and employees, except the Town Attorney, Town Clerk, and any other official whose appointment or removal is vested in the Town Council by this Charter or by general law. Neither the Town Council nor any of its members shall take part in the appointment or removal of officers or employees in the administrative service of the Town of Eastover, except as provided by this Charter. Except for purposes of inquiry, or for consultation with the Town Attorney, the Town Council and its members shall deal with Town employees solely through the Town Manager or Acting Town Manager, and neither the Town Council nor any of its members shall give any specific orders to any subordinates of the Town Manager or Acting Town Manager, either publicly or privately.

"Section 5.4. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Town Council may direct.

"Section 5.5. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Town Council may direct.

"Section 5.6. **Other Administrative Officers and Employees.** The Town Council may authorize other offices and positions and appoint persons to fill the offices and positions, or the Council may authorize the offices and positions to be filled by appointment by the Town Manager. The Town Council may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.7. **Consolidation of Functions.** Where positions are not incompatible, the Town Council may combine in one person the powers and duties of two or more officers created or authorized by this Charter.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and fees authorized by general law. An affirmative vote equal to a majority of all

the members of the Town Council shall be required to change the ad valorem tax rate from the rate established during the prior fiscal year.

"Section 6.2. **Budget.** From and after July 1, 2007, the citizens and property in the Town of Eastover shall be subject to municipal taxes levied for the year beginning July 1, 2007, and for that purpose the Town shall obtain from Cumberland County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2007. The Town may adopt a budget ordinance for fiscal year 2007-2008 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2007-2008, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 2007.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Eastover is authorized to adopt such ordinances as the Town Council deems necessary for the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** No person, or a member of the person's immediate family, who is employed by or is an official of the Town of Eastover, shall do business with the Town unless the activity is approved by the Town Council. All appointed officials of the Town shall inform the Town Council of any conflicts of interest, and the failure to so inform shall constitute grounds for immediate dismissal for cause. No official of the Town may accept any gratuity from any business, person, or other official if the gratuity is related to his or her official duties.

"Section 8.2. **Enlargement of Town Council.** The qualified voters of the Town of Eastover may seek to enlarge the number of members of the Town Council by submitting a petition to that effect signed by twenty percent (20%) of the qualified voters. Upon passage of a resolution as provided in G.S. 160A-102 or upon receipt of a valid petition, the Town Council shall immediately take steps as provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by referendum whether the number of members of the Town Council should be increased. If a majority of the votes cast in the referendum are in the affirmative, a special election shall be held at the earliest possible date to elect the additional members required to enlarge the Town Council to the number set forth in the referendum.

"Section 8.3. **Amendments to Charter.** The Town Council may propose and enact amendments to this Charter in accordance with Part 4 of Article 5 of Chapter 160A of the General Statutes. No amendment to this Charter shall become effective until public notice is given and a public hearing is held to receive comments on the proposed Charter amendment. Notwithstanding G.S. 160A-103, upon receipt of a referendum petition bearing the signatures and residence addresses of twenty percent (20%) of the qualified voters of the Town, the Town Council shall submit ordinances adopted under G.S. 160A-102 to a vote of the people.

"Section 8.4. **Provision of Services and Administration of Functions.** The Town Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide the services and administer the functions in the most efficient and cost-effective manner.

"Section 8.5. **Sales Tax Reimbursement.** The Town of Eastover shall comply with the terms of the Sales Tax Interlocal Agreement between Cumberland County and the municipalities within Cumberland County with regard to the Town of Eastover's incorporation until the Agreement expires on June 30, 2013, or the Agreement is terminated, whichever occurs first.

"ARTICLE IX. SPECIAL PROVISIONS.

"Section 9.1. **Fire Protection.** The Town of Eastover may contract with the Eastover Volunteer Fire Department, Inc., and the Vander Volunteer Fire Department, Inc., to provide fire protection for the Town. The contract terms and the amount paid by the Town of Eastover to the Eastover Volunteer Fire Department, Inc., and the Vander Volunteer Fire Department, Inc., shall be mutually agreed upon and annually renewed by the Board of Directors for the Eastover Volunteer Fire Department, Inc., and the Town Council and the Board of Directors for the Vander Volunteer Fire Department, Inc., and the Town Council."

SECTION 2. Section 1 of this act shall become effective only if the Charter of the Town of Eastover is approved under section 5 of the Voting Rights Act of 1965 by the United States Department of Justice. If the Charter is not approved, Section 1 of this act shall have no force and effect.

SECTION 3. Upon approval of the Charter by the United States Department of Justice, the Cumberland County Board of Elections, in consultation with the State Board of Elections, shall set and publicize a schedule for the election of Town Officers for the Town of Eastover at the earliest convenient date, but the election shall be held no later than 150 days after the Charter has been approved. The schedule shall include a filing period of two weeks.

SECTION 4. The persons named as members of the Interim Board in Section 3.2 of the Charter of the Town of Eastover, as enacted in Section 1 of this act, being Charles G. McLaurin, Benny Pearce, Sara Piland, Rupert Tatum, Jr., Lawrence Buffaloe, Cheryl Hudson, and Willie Geddie, shall be responsible for submitting any information required by G.S. 120-30.9F to the Attorney General of the United States.

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-268 **House Bill 973**

AN ACT TO REQUIRE MANDATORY HEALTH INSURANCE COVERAGE OF CERTAIN MENTAL ILLNESSES AND TO REQUIRE AT LEAST A MINIMUM BENEFIT PACKAGE FOR OTHER MENTAL ILLNESSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-51-55 reads as rewritten:

"§ **58-51-55. No discrimination against ~~the~~ mentally ill ~~and~~ or chemically ~~dependent.~~dependent individuals.**

(a) Definitions. – As used in this section, the term:

(1) 'Mental illness' has the same meaning as defined in ~~G.S. 122C-3(21); and~~G.S. 122C-3(21), with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or a subsequent edition published by the American Psychiatric Association, except

those mental disorders coded in the DSM-IV or subsequent editions as substance-related disorders (291.0 through 292.9 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as 'V' codes.

(2) 'Chemical dependency' has the same meaning as defined in G.S. ~~58-51-50~~ 58-51-50, with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or subsequent editions published by the American Psychiatric Association.

~~with a diagnosis found in the Diagnostic and Statistical Manual of Mental Disorders DSM-3-R or the International Classification of Diseases ICD/9/CM, or a later edition of those manuals.~~

(b) Coverage of Physical Illness. – No insurance company licensed in this State under this Chapter shall, solely because an individual to be insured has or had a mental illness or chemical dependency:

(1) Refuse to issue or deliver to that individual any policy that affords benefits or coverages for any medical treatment or service for physical illness or injury;

(2) Have a higher premium rate or charge for physical illness or injury coverages or benefits for that individual; or

(3) Reduce physical illness or injury coverages or benefits for that individual.

(b1) [Expired October 1, 2001.]

(c) ~~Mental Illness or~~ Chemical Dependency Coverage Not Required. – Nothing in this section requires an insurer to offer coverage for ~~mental illness or~~ chemical dependency, except as provided in G.S. 58-51-50.

(d) Applicability. – ~~Subsection (b1) of this~~ This section applies only to group health insurance contracts, other than excepted benefits as defined in G.S. 58-68-25. ~~58-68-25, covering more than 50 employees. The remainder of this section applies only to group health insurance contracts covering 20 or more employees.~~ For purposes of this section, "group health insurance contracts" include MEWAs, as defined in G.S. 58-49-30(a).

(e) Nothing in this section requires an insurer to cover treatment or studies leading to or in connection with sex changes or modifications and related care."

SECTION 2. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"**§ 58-3-220. Mental illness benefits coverage.**

(a) Mental Health Equity Requirement. – Except as provided in subsection (b), an insurer shall provide in each group health benefit plan benefits for the necessary care and treatment of mental illnesses that are no less favorable than benefits for physical illness generally, including application of the same limits. For purposes of this subsection, mental illnesses are as diagnosed and defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or a subsequent edition published by the American Psychiatric Association, except those mental disorders coded in the DSM-IV or subsequent edition as substance-related disorders (291.0 through 292.2 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as 'V' codes. For purposes of this subsection, 'limits' includes deductibles, coinsurance factors, co-payments, maximum out-of-pocket

limits, annual and lifetime dollar limits, and any other dollar limits or fees for covered services.

(b) Minimum Required Benefits. – Except as provided in subsection (c), a group health benefit plan may apply durational limits to mental illnesses that differ from durational limits that apply to physical illnesses. A group health benefit plan shall provide at least the following minimum number of office visits and combined inpatient and outpatient days for all mental illnesses and disorders not listed in subsection (c), as diagnosed and defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or a subsequent edition published by the American Psychiatric Association, except those mental disorders coded in the DSM-IV or subsequent edition as substance-related disorders (291.0 through 292.2 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as 'V' codes:

(1) Thirty combined inpatient and outpatient days per year.

(2) Thirty office visits per year.

(c) Durational limits for the following mental illnesses shall be subject to the same limits as benefits for physical illness generally:

(1) Bipolar Disorder.

(2) Major Depressive Disorder.

(3) Obsessive Compulsive Disorder.

(4) Paranoid and Other Psychotic Disorder.

(5) Schizoaffective Disorder.

(6) Schizophrenia.

(7) Post-Traumatic Stress Disorder.

(8) Anorexia Nervosa.

(9) Bulimia.

(d) Nothing in this section prevents an insurer from offering a group health benefit plan that provides greater than the minimum required benefits, as set forth in subsection (b).

(e) Nothing in this section requires an insurer to cover treatment or studies leading to or in connection with sex changes or modifications and related care.

(f) Weighted Average. – If a group health benefit plan contains annual limits, lifetime limits, co-payments, deductibles, or coinsurance only on selected physical illness and injury benefits, and these benefits do not represent substantially all of the physical illness and injury benefits under the group health benefit plan, then the insurer may impose limits on the mental health benefits based on a weighted average of the respective annual, lifetime, co-payment, deductible, or coinsurance limits on the selected physical illness and injury benefits. The weighted average shall be calculated in accordance with rules adopted by the Commissioner.

(g) Nothing in this section prevents an insurer from applying utilization review criteria to determine medical necessity as defined in G.S. 58-50-61 as long as it does so in accordance with all requirements for utilization review programs and medical necessity determinations specified in that section, including the offering of an insurer appeal process and, where applicable, health benefit plan external review as provided for in Part 4 of Article 50 of Chapter 58 of the General Statutes.

(h) Definitions. – As used in this section:

(1) 'Health benefit plan' has the same meaning as in G.S. 58-3-167.

(2) 'Insurer' has the same meaning as in G.S. 58-3-167.

(3) 'Mental illness' has the same meaning as in G.S. 122C-3(21), with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or subsequent editions published by the American Psychiatric Association, except those mental disorders coded in the DSM-IV or subsequent editions as substance-related disorders (291.0 through 292.9 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as 'V' codes."

SECTION 3. G.S. 58-65-90 reads as rewritten:

"§ **58-65-90. No discrimination against ~~the~~ mentally ill ~~and~~ or chemically ~~dependent.~~dependent individuals.**

(a) Definitions. – As used in this section, the term:

(1) 'Mental illness' has the same meaning as defined in ~~G.S. 122C-3(21); and~~G.S. 122C-3(21), with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or subsequent editions published by the American Psychiatric Association, except those mental disorders coded in the DSM-IV or subsequent editions as substance-related disorders (291.0 through 292.9 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as 'V' codes.

(2) 'Chemical dependency' has the same meaning as defined in G.S. ~~58-65-75~~ 58-65-75, with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or subsequent editions published by the American Psychiatric Association.

~~with a diagnosis found in the Diagnostic and Statistical Manual of Mental Disorders DSM-3-R or the International Classification of Diseases ICD/9/CM, or a later edition of those manuals.~~

(b) Coverage of Physical Illness. – No service corporation governed by this Chapter shall, solely because an individual to be insured has or had a mental illness or chemical dependency:

(1) Refuse to issue or deliver to that individual any individual or group subscriber contract in this State that affords benefits or coverage for medical treatment or service for physical illness or injury;

(2) Have a higher premium rate or charge for physical illness or injury coverages or benefits for that individual; or

(3) Reduce physical illness or injury coverages or benefits for that individual.

(b1) [Expired October 1, 2001.]

(c) ~~Mental Illness or~~ Chemical Dependency Coverage Not Required. – Nothing in this section requires a service corporation to offer coverage for ~~mental illness or~~ chemical dependency, except as provided in G.S. 58-65-75.

(d) Applicability. – This ~~Subsection (b1) of this~~ section applies only to ~~subscriber~~ group health insurance contracts, other than excepted benefits as defined in G.S. 58-68-25. ~~58-68-25, covering more than 50 employees. The remainder of this section applies only to group contracts covering 20 or more employees.~~ For purposes of this section, "group health insurance contracts" include MEWAs, as defined in G.S. 58-49-30(a).

(e) Nothing in this section requires an insurer to cover treatment or studies leading to or in connection with sex changes or modifications and related care."

SECTION 4. G.S. 58-67-75 reads as rewritten:

"§ **58-67-75. No discrimination against ~~the~~ mentally ill ~~and~~ or chemically ~~dependent.~~dependent individuals.**

(a) Definitions. – As used in this section, the term:

(1) 'Mental illness' has the same meaning as defined in ~~G.S. 122C-3(21); and~~G.S. 122C-3(21), with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or subsequent editions published by the American Psychiatric Association, except those mental disorders coded in the DSM-IV or subsequent editions as substance-related disorders (291.0 through 292.9 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as 'V' codes.

(2) 'Chemical dependency' has the same meaning as defined in G.S. ~~58-67-70~~ 58-67-70, with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, or subsequent editions published by the American Psychiatric Association.

~~with a diagnosis found in the Diagnostic and Statistical Manual of Mental Disorders DSM-3-R or the International Classification of Diseases ICD/9/CM, or a later edition of those manuals.~~

(b) Coverage of Physical Illness. – No health maintenance organization governed by this Chapter shall, solely because an individual has or had a mental illness or chemical dependency:

(1) Refuse to enroll that individual in any health care plan covering physical illness or injury;

(2) Have a higher premium rate or charge for physical illness or injury coverages or benefits for that individual; or

(3) Reduce physical illness or injury coverages or benefits for that individual.

(b1) [Expired October 1, 2001.]

(c) ~~Mental Illness or~~ Chemical Dependency Coverage Not Required. – Nothing in this section requires an HMO to offer coverage for ~~mental illness or~~ chemical dependency, except as provided in G.S. 58-67-70.

(d) Applicability. – ~~Subsection (b1) of this~~ This section applies only to group contracts, other than excepted benefits as defined in G.S. 58-68-25. ~~58-68-25, covering more than 50 employees. The remainder of this section applies only to group contracts covering 20 or more employees.~~ For purposes of this section, "group health insurance contracts" include MEWAs, as defined in G.S. 58-49-30(a).

(e) Nothing in this section requires an insurer to cover treatment or studies leading to or in connection with sex changes or modifications and related care."

SECTION 5. G.S. 58-50-155 reads as rewritten:

"§ **58-50-155. Standard and basic health care plan coverages.**

(a) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for all of the following:

(1) Mammograms and pap smears at least equal to the coverage required by G.S. 58-51-57.

(2) Prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.

(3) Reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.

(4) For a qualified individual, scientifically proven bone mass measurement for the diagnosis and evaluation of osteoporosis or low bone mass at least equal to the coverage required by G.S. 58-3-174.

(5) Prescribed contraceptive drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration for use as contraceptives, or outpatient contraceptive services at least equal to the coverage required by G.S. 58-3-178, if the plan covers prescription drugs or devices, or outpatient services, as applicable. The same exceptions and exclusions as are provided under G.S. 58-3-178 apply to standard plans developed and approved under G.S. 58-50-125.

(6) Colorectal cancer examinations and laboratory tests at least equal to the coverage required by G.S. 58-3-179.

(7) Treatment of mental illness that is at least equal to the coverage required by G.S. 58-3-220. Nothing in this subdivision prevents an insurer from applying utilization review criteria to determine medical necessity as defined in G.S. 58-50-61 as long as it does so in accordance with all requirements for utilization review programs and medical necessity determinations specified in that section, including the offering of an insurer appeal process and, where applicable, health benefit plan external review as provided for in Part 4 of Article 50 of Chapter 58 of the General Statutes.

(a1), (a2) Repealed by Session Laws 1999-197, s. 2.

(b) Notwithstanding G.S. 58-50-125(c), in developing and approving the plans under G.S. 58-50-125, the Committee and Commissioner shall give due consideration to cost-effective and life-saving health care services and to cost-effective health care providers."

SECTION 6. This act becomes effective July 1, 2008, and applies to health benefit plans that are delivered, issued for delivery, or renewed on or after that date. For purposes of this act, renewal of a health benefit policy, contract, or plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 12:50 p.m. on the 27th day of July, 2007.

Session Law 2007-269 **House Bill 986**

AN ACT TO INCORPORATE THE TOWN OF BUTNER, TO TRANSFER CERTAIN ASSETS PREVIOUSLY HELD BY THE STATE OF NORTH CAROLINA FOR THE TOWN OF BUTNER TO THE NEWLY INCORPORATED TOWN OF BUTNER, AND TO MAKE CONFORMING CHANGES TO PUBLIC LAWS AFFECTING THE BUTNER RESERVATION.

The General Assembly of North Carolina enacts:

SECTION 1. Findings and Purpose. The General Assembly finds as follows:

(1) The Camp Butner reservation is administered by the Secretary of the Department of Health and Human Services (hereinafter "Secretary") in accordance with the provisions of Article 6 of Chapter 122C of the General Statutes (the Camp Butner reservation is variously referred to, in whole or in part, as the Camp Butner reservation, the Town of Butner, and the Community of Butner and in this act shall be referred to as the "Butner Reservation").

(2) The Department of Health and Human Services (hereinafter "Department") has long operated the Town of Butner with the Secretary or the Secretary's designee acting as the de facto mayor of the Town of Butner.

(3) The operation of the Town of Butner is not a core function of the Department, and the Department's mission would not be negatively impacted by the incorporation of the Town of Butner.

(4) The utilities were transferred to the South Granville Water and Sewer Authority ("SGWASA") pursuant to the provisions of Session Law 2006-159 which also provides that SGWASA shall pay to the Department a sum, indexed to inflation, as set out in that legislation to support the operations of the Butner Reservation including the Town of Butner.

(5) The citizens of the Town of Butner currently also pay a tax authorized by Section 1 of Chapter 830 of the 1983 Session Laws of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property to the Butner Public Safety Division of the Department of Crime Control and Public Safety.

(6) The customers of the utility have paid for water and sewer over the years, and those payments have also financed the operations of the Town of Butner.

(7) Certain personal property has been purchased by the Department for use in operating the Butner Reservation and that personal property traditionally used primarily for the benefit of the portion of the Butner Reservation to be incorporated should be transferred by the State to the newly incorporated Town of Butner.

SECTION 1.1. A Charter for the Town of Butner is enacted to read:

"CHARTER OF THE TOWN OF BUTNER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Butner are a body corporate and politic under the name 'Town of Butner.' The Town of Butner has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Butner are as shown on a map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner City Hall, the Granville County Planning Department, and in the office of the Granville County Board of Elections. The area within said boundaries shall be in the Town of Butner and in no other municipality.

"Section 2.2. **Extraterritorial Jurisdiction.** Until modified in accordance with law, the extraterritorial jurisdiction of the Town of Butner under G.S. 160A-360 shall be as shown on a map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and in the office of the Granville County Board of Elections.

"Section 2.3. **Restrictions on Annexation as to Creedmoor.**

(a) The Town of Butner may not annex under Article 4A of Chapter 160A of the General Statutes any territory not shown in its corporate limits or extraterritorial jurisdiction on the map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and the Granville County Board of Elections located east of the centerline of Cash Road and south of Interstate 85 without first receiving approval of the City of Creedmoor Board of Commissioners.

(b) For a period of five years following the effective date of the incorporation of the Town of Butner, the Town of Butner may not involuntarily annex under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes any territory not shown in its corporate limits or extraterritorial jurisdiction on the map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and the Granville County Board of Elections located west of the centerline of Cash Road and South of Interstate 85 without first receiving approval of the City of Creedmoor Board of Commissioners.

"Section 2.4. **Restrictions on Annexation and Extraterritorial Jurisdiction as to the City of Durham.**

(a) Notwithstanding the provisions of G.S. 160A-58.1(b)(2) and provided the remainder of the requirements of Part 4 of Article 4A of Chapter 160A of the General Statutes are met, the City of Durham may annex by satellite annexation pursuant to G.S. 160A-58.1, or any successor statute, any territory in Durham County that is closer to the primary corporate limits of the Town of Butner than to the primary corporate limits of the City of Durham. This subsection shall also be considered as part of the Charter of the City of Durham.

(b) In addition to any other requirements of law, the Town of Butner may not annex under Article 4A of Chapter 160A of the General Statutes any territory in Durham County, or exercise extraterritorial authority under Article 19 of Chapter 160A of the General Statutes in Durham County, without first receiving approval of the City of Durham, as evidenced by a resolution or ordinance adopted by the City Council.

(e) The Town of Butner shall not request any changes in this section of the Charter without first receiving approval of the City of Durham, as evidenced by a resolution or ordinance adopted by the City Council.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of the Governing Body; Number of Members.** The governing body of the Town of Butner shall be the Town Council, which shall have six members.

"Section 3.2. **Temporary Officers.**

(a) Until January 1, 2008, Edgar Smoak is appointed Mayor. At its first regular meeting in December 2007, the Butner Town Council shall choose from among its membership a Mayor to serve from January 1, 2008, through December 31, 2008. At its first regular meeting in December 2008, the Butner Town Council shall choose from among its membership a Mayor to serve from January 1, 2009, through the organizational meeting after the initial election of 2009.

(b) Until the organizational meeting after the initial election of 2009 provided for by Article IV of this Charter, Vicky Cates, Christine Emory, Linda Jordan, Tom Lane, Elbert Oakely, Jr., and John Wimbush are appointed members of the Town Council of the Town of Butner. Edgar Smoak is appointed to the Butner Town Council to serve from January 1, 2008, through the organizational meeting after the initial election of 2009 to fill the vacancy caused by a member of the Town Council being chosen as Mayor. The person chosen from the council to serve as Mayor from January 1, 2008, through December 31, 2008, is appointed to the Butner Town Council to serve from January 1, 2009, through the organizational meeting after the initial election of 2009.

(c) If any person named in this section is unable to serve, the remaining named members of the Town Council shall, by majority vote, appoint a person to serve until the initial election is held.

"Section 3.3. **Manner of Electing Council; Term of Office.** The qualified voters of the entire Town shall elect members of the Town Council from the Town at large. Members shall be elected in 2009, and quadrennially thereafter, for four-year terms. To be eligible for election to the Town Council, an individual must reside in the Town of Butner. Vacancies on the Town Council shall be filled in accordance with G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Town shall elect the Mayor in 2009, and biennially thereafter, for a term of two years. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to the matters involving the Town of Butner, and shall have the right to vote as a member of the Town Council only on matters before the Town Council when his or her vote is necessary to break a tie.

"Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.**

(a) The person serving as vice-chairman of the Butner Advisory Council on the day before the effective date of incorporation shall serve as the Mayor Pro Tempore until January 1, 2008. In December of 2007, the members of the Butner Town Council shall select a Mayor Pro Tempore from the membership of the Town Council to serve from January 1, 2008, through December 31, 2008. In December of 2008, the members of the Butner Town Council shall select a Mayor Pro Tempore from the membership of the Town Council to serve from January 1, 2009, until the organizational meeting after the 2009 municipal election.

(b) At the organizational meeting after the initial election in November 2009, and biennially thereafter, the Mayor Pro Tempore shall be elected from among the members of the Town Council and shall serve for a term of two years.

(c) The Mayor Pro Tempore shall act both in the absence or disability of the Mayor. If the Mayor and the Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of the Town Council present may elect a temporary chairman to preside in the absence. The Mayor Pro Tempore shall have the right to vote on all matters before the Town Council and shall be considered a member of the Town Council for all purposes.

"Section 3.6. **Compensation of Mayor and Town Council**. Compensation of the Mayor and members of the Town Council shall be fixed by the Town Council pursuant to the provisions of G.S. 160A-64.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes, except that the first election is to be held on the statewide date for municipal elections in November 2009.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE V. ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager plan as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and fees authorized by general law.

"Section 6.2. **Budget.** From and after July 1, 2007, the citizens and property in the Town of Butner shall be subject to municipal taxes levied for the fiscal year beginning July 1, 2007, and, for that purpose, the Town shall obtain from Granville County a record of the property in the area herein incorporated that was listed for taxes as of January 1, 2007. The Town may adopt a budget ordinance for fiscal year 2007-2008 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the Act insofar as is practical. For fiscal year 2007-2008, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 106-360 as if the taxes had been due and payable on September 1, 2007.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Butner is authorized to adopt such ordinances as the Town Council deems necessary for the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** Business shall be conducted in accordance with G.S. 14-234 and in accordance with other applicable statutes.

"Section 8.2. **Provision of Services and Administration of Functions.** The Town Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide the services and administer the functions in the most efficient and cost-effective manner.

"Section 8.3. **Shared Revenues.** For the purpose of allocation of State and local shared revenues during the 2007-2008 fiscal year, including sales tax and Powell Bill funds, the Town of Butner shall be considered to have been incorporated on June 30, 2007."

SECTION 2. The incorporation of the Town of Butner by Section 1 of this act and the remaining provisions of this act satisfy the requirement of Section 2(c) of Session Law 2006-159 that the majority of the functions of the Department performed at the Butner Reservation are assumed by a municipal corporation organized pursuant to the laws of the State of North Carolina.

SECTION 3.(a) The Governor shall convey to the incorporated Town of Butner on or before September 1, 2007, all right, title, and interest in all of the personal property used by the Department for the benefit of that portion of the Reservation to be incorporated by this bill in the operation of the Town of Butner including tools,

vehicles, lawn mowers, backhoe loaders, and files specific to the operation of the newly incorporated Town of Butner including, but not limited to, the following:

(1) 1992 Ford Truck, VIN number 1FTEF14Y6NLA85717;
(2) 2002 Ford F-250, VIN number 1FTNW21F42EC18905;
(3) 2003 Ford F-250, VIN number 1FTNX21P33EEC90069;
(4) 2003 Ford F-250, VIN number 1FTNX21PX3EC90070;
(5) 2003 Ford F-250, VIN number 1FTNX21P13EC90071;
(6) 2007 International Dump Truck, VIN number 1HTWAAAN17J408280;
(7) Texas Bragg Utility Trailer, number 17XFP1011V1976244;
(8) Hardee Trailer Tandem, number 1H9ET2148LLD59020;
(9) 2007 Hudson 9-ton trailer, number 10HHTDID171000022;
(10) Toro 16HP walk behind mower model 30182, number 30182-690886;
(11) John Deere Z-TRAK Riding Mower, number TC0777B021014;
(12) Ford Model 1710 T22 Tractor with mower, number UL11130;
(13) Massey Ferguson MF481-4 tractor, number BP09020;
(14) Ford/New Holland Model DR655D backhoe/loader, number A430916;
(15) Bobcat model 743 Skid-steer loader, number 501939197;
(16) Hyundai Robex R55-7 mini excavator, number M80111802; and
(17) Such additional equipment used by the Department primarily for the operation of the Town of Butner as shown on a list of equipment agreed upon by the Department and the interim governing board of the Butner Advisory Council and which is on file with the Secretary and the Chairman of the Butner Advisory Council.

SECTION 3.(b) On or before December 15, 2007, the Governor shall convey to the incorporated Town of Butner for use for recreation facilities, the preservation of open space, and future development all right, title, and interest in the following real property owned by the State of North Carolina, which property is within the area to be incorporated as the Town of Butner:

(1) Granville County Tax Parcel # 086501473006, as shown on that certain plat recorded at Plat Book 13, Page 122 of the Granville County Registry and containing 0.6065 acres more or less;
(2) Granville County Tax Parcel # 086502572428, consisting of 5.79 acres more or less and more particularly described as a strip of land approximately 100.00 in width running parallel to the railroad track off of B Street;
(3) Granville County Tax Parcel # 086607782896 consisting of 0.54 acres more or less and more particularly described as Lot 2, 12th Street;
(4) Granville County Tax Parcel # 086607782946, consisting of lot 1 as shown on that certain plat recorded at Plat Book 12, Page 137 of the Granville County Registry;
(5) Granville County Tax Parcel # 086720719052, consisting of lot 6A as shown on that certain plat recorded at Plat Book 15, Page 23 of the Granville County Registry;
(6) Granville County Tax Parcel # 087610265136, being a water meter station site approximately 55 feet in length and 25 feet in width off of Gate 2 Road;

(7) Granville County Tax Parcel # 087606275755, consisting of lot 5 as shown on that certain plat recorded at Plat Book 5, Page 25 of the Granville County Registry;
(8) Granville County Tax Parcel # 087606276823, consisting of lots 6 and 7 as shown on that certain plat recorded at Plat Book 5, Page 25 of the Granville County Registry;
(9) Granville County Tax Parcel # 087606287781, being a small lot approximately 25.00 feet in width on the southeast end, 27.00 feet in width on the northwest end, and 155.2 feet in length located off of C Street;
(10) Granville County Tax Parcel # 087718217623, consisting of that portion of the 30 foot alley owned by the State as shown on that certain plat recorded at Plat Book 3, Page 149 of the Granville County Registry;
(11) Granville County Tax Parcel # 087718228382, consisting of lot 22-A as shown on that certain plat recorded at Plat Book 16, Page 140 of the Granville County Registry;
(12) Granville County Tax Parcel # 087718229235, consisting of lot 23-A as shown on that certain plat recorded at Plat Book 16, Page 140 of the Granville County Registry;
(13) Granville County Tax Parcel # 087718320095, consisting of lot 26-A as shown on that certain plat recorded at Plat Book 17, Page 97 of the Granville County Registry;
(14) Granville County Tax Parcel # 086608788472, consisting of lot 13 as shown on that certain plat recorded at Plat Book 5, Page 127 of the Granville County Registry;
(15) Granville County Tax Parcel # 086608785481, consisting of lot 1 as shown on that certain plat recorded at Plat Book 5, Page 127 of the Granville County Registry;
(16) Granville County Tax Parcel # 086608890153, consisting of lot 7 as shown on that certain plat recorded at Plat Book 7, Page 74 of the Granville County Registry;
(17) Granville County Tax Parcel # 086608891250, consisting of lot 8 as shown on that certain plat recorded at Plat Book 7, Page 74 of the Granville County Registry;
(18) Granville County Tax Parcel # 087606396411, consisting of lot 10 as shown on that certain plat recorded at Plat Book 2, Page 118A of the Granville County Registry;
(19) Granville County Tax Parcel # 086615636355, consisting of lot 4 as shown on that certain plat recorded at Plat Book 4, Page 141 of the Granville County Registry;
(20) Granville County Tax Parcel # 086615635235, consisting of lot 5 as shown on that certain plat recorded at Plat Book 4, Page 141 of the Granville County Registry;
(21) Granville County Tax Parcel # 086501487018, consisting of lots 4 and 5 as shown on that certain plat recorded at Plat Book 2, Page 147 of the Granville County Registry;

(22) Granville County Tax Parcel # 086501499107, consisting of lots 26 and 27 as shown on that certain plat recorded at Plat Book 2, Page 147 of the Granville County Registry;

(23) Granville County Tax Parcel # 086604501213, consisting of lots 48 and 49 as shown on that certain plat recorded at Plat Book 2, Page 147 of the Granville County Registry;

(24) That certain tract or parcel of land identified in the Butner Long-Range Master Plan dated December 1998 prepared pursuant to Section 4 of Senate Bill 428, 1997 Session, consisting of 650 acres more or less located in the southern portion of the study area as described in said master plan along 'B' Street and west of 12th, 5th, and 4th Street, and more particularly shown on a map dated March 19, 2007, prepared by Deborah H. Robertson, Registered Forester, for the North Carolina Department of Agriculture, a copy of which is on file with the Town of Butner, the Department of Health and Human Services, and the Department of Agriculture. If said property or any portion thereof is sold, leased, or otherwise conveyed to a private entity (other than a land trust or other nonprofit organization devoted to conservation), the sales price shall be either (i) approved by the Secretary and the Town of Butner or (ii) equal to or greater than the appraised value of the property as determined by a qualified appraiser selected by the Town of Butner and the Secretary or, if the Town of Butner and the Secretary cannot agree on an appraiser, then the value of the property as determined by the average of the value of said property as determined by a qualified appraiser selected by the Secretary and a qualified appraiser selected by the Town of Butner. Upon the disposition of said land by the Town of Butner, twenty-five percent (25%) of any sales proceeds shall be retained by the Town of Butner, and the remainder of the sales proceeds, if any, shall be paid to the State Treasurer by the Town for deposit in a capital improvement account to the credit of the Department of Health and Human Services as set out in Section 12 hereof. The costs of sale, if any, shall be deducted from the sales proceeds and shall be allocated between the Town and the Department based upon each party's share of the sales proceeds;

(25) That certain tract or parcel of land identified in the Butner Long-Range Master Plan dated December 1998 prepared pursuant to Section 4 of Senate Bill 428, 1997 Session, consisting of five acres more or less located in the central portion of the study area as described in said master plan along Central Avenue, midway between 'D' Street and 'E' Street and known as the Gazebo area;

(26) That certain tract or parcel of land identified in the Butner Long-Range Master Plan dated December 1998 prepared pursuant to Section 4 of Senate Bill 428, 1997 Session, consisting of 30 acres more or less located in the central portion of the study area, between 'F' Street and 'G' Street and from 12th Street to Central Avenue; provided, however, that the State shall retain ownership of the portion of said property consisting of 7843.45 square feet (0.18 acres) currently leased by the State to Sprint as shown on that certain map entitled "Site Survey for: Sprint," prepared by Jim Morrow, Professional Land Surveyor and

dated January 9, 2005, and upon which is currently located a cellular telephone tower. It is further provided that this property shall vest in the Town of Butner if said property is no longer leased by the State for use as a communications tower or is no longer used or occupied by the State for State purposes;

(27) That certain tract or parcel of land between 'D' Street and 'E' Street and from 24th Street to 26th Street upon which is located that structure known as the Butner Sports Arena;

(28) That certain building and parcel of land known as Granville County Tax Parcel # 087605091519 located on Central Avenue currently leased by the Department to the Employment Security Commission; provided, however, that such transfer shall be subject to the terms of the existing lease between the Department and the Employment Security Commission;

(29) That certain tract or parcel of land consisting of twenty acres more or less previously designated for use as a ball field for Town of Butner and being that portion of a 83.6892 acre tract shown on a survey titled "Survey for North Carolina Department of Human Resources, Butner, North Carolina," and dated October 23, 1995 by James R. Wilson, Registered Land Surveyor lying northeast of the Wake Electric Management Corporation power line right-of-way as shown on said map;

(30) That certain tract or parcel of land described in Session Law 1997-443 and set aside for the use of the citizens of Butner "until the time . . . that a permanent local government is established on the Butner Reservation at which time the land shall be transferred to the local government." Said tract or parcel of land is more particularly described in said session law as follows: "Approximately 2 acres, on the east side it borders Central avenue with a line running along the Wallace Bradshur property on the north back to the tree line next to the ADATC. From there it follows a tree line south and west to and including the softball field. From the softball field it turns east to the State Employees Credit Union and follows the Credit Union property on the south side back to Central Avenue." In addition thereto, said conveyance is intended to include all property owned by the State, including all alleyways, (except the property occupied by the State Employees Credit Union) bounded on the south by the above described softball field, on the north by Central Avenue, on the west by the property formerly belonging to Wallace Bradsher (now owned by Ronald Alligood) and on the east by West E Street;

(31) That certain portion of the lands owned by the State containing 8.11 acres more or less bordered by G Street, 21st Street, Granville Street, and that certain parcel of land described in the Granville County tax records as Granville County Tax Parcel # 086720900028 to the south;

(32) That certain portion of the lands owned by the State beginning at a point in the northeast corner of that parcel of land described in the Granville County tax records as Granville County Tax Parcel # 087717029272 and continuing in a straight line from said point northeast in a manner parallel to F Street approximately 1,762.64 feet

to a point perpendicular to the southwest corner of the paved surface of 25th Street; running thence southeast approximately 227.01 feet to a point being a common corner between Granville County Tax Parcel # 087713234113, the subject property, and 25th Street and running thence southwest approximately 235.00 feet to a corner, thence southeast approximately 590.05 feet along the boundaries with Granville County Tax Parcel numbers 087713234113, 087714235047, 087714225965, 087714226845, and 087714226762; thence southwest approximately 99.00 feet to a common corner with Granville County Tax Parcel number 087714225529; thence northwest approximately 225.00 feet to a corner; thence southwest approximately 560.00 feet to a corner with Granville County Tax Parcel # 087717221306; thence southeast along a common boundary with Granville County Tax Parcel # 087717221306 approximately 225.00 feet to a corner with East F Street; thence southwest approximately 329.00 feet to a common corner with Granville County Tax Parcel # 087717127160 and East F Street; thence northwest approximately 225.00 feet to a common corner with Granville County Tax Parcel # 087717127160; thence southwest approximately 308.32 feet along Granville County Tax Parcel numbers 087717127160, 087717126083, and 087717125071 to a corner; thence northeast approximately 18.00 feet; thence northwest approximately 354.00 feet to a corner with G Street; thence southeast approximately 244.00 feet to a common corner with Granville County Tax Parcel # 087717029272 and G Street; thence northwest approximately 225.00 feet along the boundary of Granville County Tax Parcel # 087717029272 to the point and place of beginning containing 21.9718 acres more or less;

(33) Granville County Tax Parcel # 086502592083, consisting of 5.34 acres more or less;

(34) Granville County Tax Parcel # 086502592311, consisting of 1.07 acres more or less and more particularly described as Lot 1, West B Street;

(35) Granville County Tax Parcel # 086604503159, consisting of 0.47 acres more or less and more particularly described as Lots 48, 49, Block B, B Street;

(36) Granville County Tax Parcel # 086604503279, consisting of 0.46 acres more or less and more particularly described as Lots 50, 51, Block B, B Street;

(37) Granville County Tax Parcel # 086604503379, consisting of 0.44 acres more or less and more particularly described as Lots 52, 53, Block B, B Street;

(38) Granville County Tax Parcel # 086604503499, consisting of 0.45 acres more or less and more particularly described as Lots 54, 55, Block B, B Street;

(39) Granville County Tax Parcel # 086604504519, consisting of 0.46 acres more or less and more particularly described as Lots 56, 57, Block B, B Street;

(40) Granville County Tax Parcel # 086604504638, consisting of 0.45 acres more or less and more particularly described as Lots 58, 59, Block B, B Street;

(41) Granville County Tax Parcel # 086604504868, consisting of 0.46 acres more or less and more particularly described as Lots 62, 63, Block B, B Street;
(42) Granville County Tax Parcel # 086604504978, consisting of 0.44 acres more or less and more particularly described as Lots 64, 65, Block B, B Street;
(43) Granville County Tax Parcel # 086604513433, consisting of 0.48 acres more or less and more particularly described as Lots 72, 73, Block A, B Street;
(44) Granville County Tax Parcel # 086604515008, consisting of 0.44 acres more or less and more particularly described as Lots 66, 67, Block B, B Street;
(45) Granville County Tax Parcel # 086604515128, consisting of 0.44 acres more or less and more particularly described as Lots 68, 69, Block B, B Street;
(46) Granville County Tax Parcel # 086604515258, consisting of 0.44 acres more or less and more particularly described as Lots 70, 71, Block B, B Street;
(47) Granville County Tax Parcel # 086604515377, consisting of 0.42 acres more or less and more particularly described as Lots 72, 73, Block B, B Street;
(48) Granville County Tax Parcel # 086604516404, consisting of 0.43 acres more or less and more particularly described as Lots 74, 75, Block B, B Street;
(49) Granville County Tax Parcel # 086604516533, consisting of 0.42 acres more or less and more particularly described as Lots 76, 77, Block B, B Street;
(50) Granville County Tax Parcel # 086604516661, consisting of 0.42 acres more or less and more particularly described as Lots 78, 79, Block B, B Street;
(51) Granville County Tax Parcel # 086604517710, consisting of 0.43 acres more or less and more particularly described as Lots 80, 81, Block B, B Street;
(52) Granville County Tax Parcel # 086604517870, consisting of 0.43 acres more or less and more particularly described as Lots 82, 83, Block B, B Street;
(53) Granville County Tax Parcel # 086604518827, consisting of 0.42 acres more or less and more particularly described as Lots 84, 85, Block B, B Street;
(54) Granville County Tax Parcel # 086604518944, consisting of 0.43 acres more or less and more particularly described as Lots 86, 87, Block B, B Street;
(55) Granville County Tax Parcel # 086604528092, consisting of 0.43 acres more or less and more particularly described as Lots 88, 89, Block B, B Street;
(56) Granville County Tax Parcel # 086604528460, consisting of 0.47 acres more or less and more particularly described as Lots 94, 95, Block A, B Street;

(57) Granville County Tax Parcel # 086604529150, consisting of 0.43 acres more or less and more particularly described as Lots 90, 91, Block B, B Street;

(58) Granville County Tax Parcel # 086604620117, consisting of 0.44 acres more or less and more particularly described as Lots 92, 93, Block B, B Street;

(59) Granville County Tax Parcel # 086604620274, consisting of 0.43 acres more or less and more particularly described as Lots 94, 95, Block B, B Street;

(60) Granville County Tax Parcel # 086604621322, consisting of 0.44 acres more or less and more particularly described as Lots 96, 97, Block B, B Street;

(61) Granville County Tax Parcel # 086604621399, consisting of 0.44 acres more or less and more particularly described as Lots 98, 99, Block B, B Street;

(62) Granville County Tax Parcel # 086615623535, consisting of 1.11 acres more or less and more particularly described as Lot 100-103, B Street;

(63) Granville County Tax Parcel # 086615624652, consisting of 0.44 acres more or less and more particularly described as Lots 104, 105, Block B, B Street;

(64) Granville County Tax Parcel # 086615625628, consisting of 0.46 acres more or less and more particularly described as Lots 106, 107, Block B, B Street;

(65) Granville County Tax Parcel # 086615626714, consisting of 0.58 acres more or less and more particularly described as Lots 108, 109, Block B, B Street;

(66) Granville County Tax Parcel # 086612870444, consisting of 0.46 acres more or less and more particularly described as Lot 3 (Drain Lot), 12th Street;

(67) Granville County Tax Parcel # 086608870513, consisting of 0.46 acres more or less and more particularly described as Lot 2, 12th Street;

(68) Granville County Tax Parcel # 086612871305, consisting of 0.46 acres more or less and more particularly described as Lot 4, 12th Street;

(69) Granville County Tax Parcel # 086608880691, consisting of 0.71 acres more or less and more particularly described as Lot 19, 13th Street;

(70) Granville County Tax Parcel # 086608880736, consisting of 0.51 acres more or less and more particularly described as Lot 15, F Street;

(71) Granville County Tax Parcel # 087717027043, consisting of 0.52 acres more or less and more particularly described as Lot 13, G Street;

(72) Granville County Tax Parcel # 086720919453, consisting of 0.51 acres more or less and more particularly described as Lot 3, G Street;

(73) Granville County Tax Parcel # 087717010447, consisting of 0.52 acres more or less and more particularly described as Lot 4, G Street;

(74) Granville County Tax Parcel # 087717011524, consisting of 0.52 acres more or less and more particularly described as Lot 5, G Street;

(75) Granville County Tax Parcel # 087717012600 consisting of 0.52 acres more or less and more particularly described as Lot 6, G Street;

(76) Granville County Tax Parcel # 087717012677, consisting of 0.51 acres more or less and more particularly described as Lot 7, G Street;

(77) Granville County Tax Parcel # 087717013753, consisting of 0.51 acres more or less and more particularly described as Lot 8, G Street;
(78) Granville County Tax Parcel # 087717014739, consisting of 0.51 acres more or less and more particularly described as Lot 9, G Street;
(79) Granville County Tax Parcel # 087717015805, consisting of 0.51 acres more or less and more particularly described as Lot 10, G Street;
(80) Granville County Tax Parcel # 087717015991, consisting of 0.51 acres more or less and more particularly described as Lot 11, G Street;
(81) Granville County Tax Parcel # 087717016967, consisting of 0.50 acres more or less and more particularly described as Lot 12, G Street;
(82) Granville County Tax Parcel # 087717028039, consisting of 0.51 acres more or less and more particularly described as Lot 14, G Street;
(83) Granville County Tax Parcel # 087717029106, consisting of 0.51 acres more or less and more particularly described as Lot 15, G Street;
(84) Granville County Tax Parcel # 087717029272, consisting of 0.51 acres more or less and more particularly described as Lot 16, G Street;
(85) Granville County Tax Parcel # 087717110827, consisting of 0.74 acres more or less and more particularly described as Lot 8, G Street;
(86) Granville County Tax Parcel # 087717111915, consisting of 0.73 acres more or less and more particularly described as Lot 7, G Street;
(87) Granville County Tax Parcel # 087717122002, consisting of 0.74 acres more or less and more particularly described as Lot 6, G Street;
(88) Granville County Tax Parcel # 087717123009, consisting of 0.74 acres more or less and more particularly described as Lot 5, G Street; and
(89) That portion of the property owned by the State of North Carolina bordering Lake Holt consisting of ten acres more or less upon which property is currently located the concession stand/bait shop, enclosed picnic shelter, boat docks, picnic tables, parking area and other recreational facilities currently used by the Town of Butner in support of the recreational use of Lake Holt, together with an easement thereto across the existing access roads from Old Highway 75 to said recreational facilities.
(90) All other lots, alleyways, and parcels of land one acre or less not currently occupied by the State of North Carolina.

SECTION 3.(c) The Town of Butner may dispose of by private negotiation and sale any of the real property described in subsection (b) of this section, and shall specifically be exempt as to those dispositions from the provisions of Article 12 of Chapter 160A of the General Statutes. This subsection does not apply to property listed in subdivisions (25), (26), (27), (28), (29), (30), or (89) of subsection (b) of this section.

SECTION 3.(d) On or before March 15, 2008, the Governor shall convey to the incorporated Town of Butner for use for recreation, the preservation of open space, protection of the public drinking water supply, and possible future expansion of Lake Holt, a perpetual Conservation Easement pursuant to Article 4 of Chapter 121 of the General Statutes enforceable against the State of North Carolina, without regard to the defense of sovereign immunity or similar doctrines, in and to all land owned by the State of North Carolina (except that portion of the hereinafter described land under use by the National Guard and restricted by a deed provision requiring that said land revert to the ownership of the United States if not used for military purposes, said National Guard property being more particularly described at Deed Book 140, Page 236 of the

Granville County Registry) east of Range Road (State Road 1121), south of Roberts Chapel Road, north of Old Highway 75, and west of Range Road (State Road 1126) consisting of 1463 acres more or less surrounding the perimeter of Lake Holt as more particularly described on a map prepared June 18, 2007 by Deborah H. Robertson, Registered Forester, for the North Carolina Department of Agriculture, a copy of which is on file with the Town of Butner, the Department of Health and Human Services and the Department of Agriculture; provided, however, that the State of North Carolina shall not be restricted in its right to use that portion of the above-referenced property currently used by the State for the operation of Camp Barham and Camp Eason as long as such use, which may include the construction of additional improvements, is consistent with such laws, rules, regulations, and ordinances as are or may be in place for the protection of the public drinking supply and that said easement shall not be by its terms inconsistent with the rights given to the South Granville Water and Sewer Authority in that certain Easement and License Agreement dated December 14, 2006 and recorded at Book 1185, Page 291 of the Granville County Registry. Said easement shall prohibit all residential, commercial, and industrial uses in the easement area but shall not limit the State of North Carolina's use of said easement area for agricultural and silvicultural uses, provided said uses are consistent with all laws, rules, regulations, and ordinances governing said uses. There shall be excepted from the above easement area that certain tract or parcel of land consisting of 85 acres more or less and labeled "Proposed NBAF Site" on the above-described map; provided, however, that if said tract or parcel of land is not selected by the United States Department of Homeland Security for use in connection with the National Bio and Agro-Defense Facility project (NBAF Project) within five years of the date hereof, said area shall become subject to the terms of the easement to be granted. If no deed is recorded within five years in the Granville County Registry conveying said tract or parcel of land or some part thereof for use in connection with the above-described project, it shall be conclusively presumed that said tract or parcel of land or part thereof not so conveyed is subject to the terms of the easement herein granted. Said easement also shall grant to the South Granville Water and Sewer Authority and its successors the right to enforce the terms of the easement related to the protection of the public drinking water supply. The Town of Butner shall be allowed the continued use, including the expansion and improvement, of the recreational facilities described in Section 3(b)(89) of this act.

SECTION 3.(e) The Department of Health and Human Services may contract with the Town of Butner to provide employees, equipment, and material and services for a period not to exceed six months after incorporation and to lease property to the Town of Butner any time after incorporation.

SECTION 3.1. G.S. 122C-3(3) reads as rewritten:

"§ **122C-3. Definitions.**

The following definitions apply in this Chapter:

…

(3) "Camp Butner reservation" means the original Camp Butner reservation as may be designated by the Secretary as having been acquired by the State and includes not only areas which are owned and occupied by the State but also those which may have been leased or otherwise disposed of by the ~~State.~~ State, and shall also include those areas within the municipal boundaries of the Town of Butner and that portion of the extraterritorial jurisdiction of the Town of Butner consisting of lands not owned by the State of North Carolina.

…."

SECTION 4. G.S. 122C-403 reads as rewritten:

"§ **122C-403. Secretary's authority over Camp Butner reservation.**

The Secretary shall administer the Camp Butner ~~reservation~~ reservation except (i) those areas within the municipal boundaries of the Town of Butner and (ii) that portion of the Town of Butner's extraterritorial jurisdiction consisting of lands not owned by the State of North Carolina. In performing this duty, the Secretary has the powers listed below. In exercising these powers the Secretary has the same authority and is subject to the same restrictions that the governing body of a city would have and would be subject to if the reservation was a city, unless this section provides to the contrary. The Secretary may:

(1) Regulate airports on the reservation in accordance with the powers granted in Article 4 of Chapter 63 of the General Statutes.

(2) Take actions in accordance with the general police power granted in Article 8 of Chapter 160A of the General Statutes.

(3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, and the protest petition requirements in G.S. 160A-385, and 160A-386 do not ~~apply.~~ apply, but the Secretary shall give the mayor of the Town of Butner at least 14 days' advance written notice of any proposed zoning change. The Secretary may ~~appoint the Butner Planning Council~~ establish a board to act like a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, ~~the Butner Planning Council~~ that board shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.

(4) Establish one or more planning agencies in accordance with the power granted in ~~G.S. 160A-361 or designate the Butner Planning Council as the planning agency for the reservation.~~ G.S. 160A-361.

(5) Regulate streets, traffic, and parking on the reservation in accordance with the powers granted in Article 15 of Chapter 160A of the General Statutes.

(6) Control erosion and sedimentation on the reservation in accordance with the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of the General Statutes.

(7) Contract with and undertake agreements with units of local government in accordance with the powers granted in G.S. 160A-413 and Article 20, Part 1, of Chapter 160A of the General Statutes.

(8) Regulate floodways on the reservation in accordance with the powers granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the General Statutes.

~~(8a) Act on resolutions adopted by the council pursuant to G.S. 122C-413.1(a). If the Secretary approves the resolution, it shall be carried out by the Butner Town Manager. The Secretary shall have no~~

~~more than 30 days during which to disapprove any recommendation of the council contained in the resolution. Any disapproval shall be in writing, stating the reasons for the disapproval, and shall be returned to the council. If the Secretary does not disapprove a recommendation of the council within the prescribed period, the recommendation shall be deemed approved by the Secretary and shall be carried out by the Butner Town Manager.~~

(9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the ~~Butner Town Manager.~~Secretary's designee.

~~(9a) Select the Butner Town Manager from the candidates submitted by the council pursuant to G.S. 122C-413.1(b). The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.~~

(10) Adopt rules to carry out the purposes of this Article."

SECTION 5. G.S. 122C-405 reads as rewritten:

"§ **122C-405. Procedure applicable to rules.**

Rules adopted by the Secretary under this Article shall be adopted in accordance with the procedures for adopting a city ordinance on the same subject, shall be subject to review in the manner provided for a city ordinance adopted on the same subject, and shall be enforceable in accordance with the procedures for enforcing a city ordinance on the same subject. Violation of a rule adopted under this Article is punishable as provided in G.S. 122C-406.

Rules adopted under this Article may apply to part or all of the Camp Butner ~~reservation.~~ Reservation, except those areas within the municipal boundaries of the Town of Butner and that portion of the Town of Butner's extraterritorial jurisdiction consisting of lands not owned by the State of North Carolina. If a public hearing is required before the adoption of a rule, ~~the Butner Planning Council shall conduct the hearing.~~ the Secretary shall designate one or more employees of the Department to conduct the hearing. The Butner Town Council shall receive at least 14 days' advance written notice of any public hearing with all correspondence concerning such public hearings to be directed to the mayor of the Town of Butner and sent by certified mail, return receipt requested, or equivalent delivery service to Butner Town Hall."

SECTION 6. G.S. 122C-407 reads as rewritten:

"§ **122C-407. Water and sewer system.**

(a) The Department may acquire, construct, establish, enlarge, maintain, operate, and contract for the operation of a water supply and distribution system and a sewage collection and disposal system for the Camp Butner ~~reservation.~~ Reservation, and may enter into such contracts, memoranda of understanding, and other agreements with other persons or entities, including, but not limited to, local governments, authorities, and private enterprises, reasonably necessary to extend or otherwise provide water and sewer service to any portion of the Camp Butner Reservation.

(b) ~~These water and sewer systems~~ Those things authorized by subsection (a) of this section may be operated for the benefit of persons and property within the Camp Butner reservation and areas outside the reservation within reasonable limitations specifically including any sanitary ~~district or city~~ district, water and sewer authority, county water and sewer district, or municipality in Durham or Granville Counties.

(c) The Secretary may fix and enforce water and sewer rates and charges in accordance with G.S. 160A-314 as if it were a city."

SECTION 7. G.S. 122C-408 reads as rewritten:

"§ **122C-408. Butner Public Safety Division of the Department of Crime Control and Public Safety; jurisdiction; fire and police district.**

(a) The Secretary of Crime Control and Public Safety may employ special police officers for the territory of the Butner ~~Advisory Council Jurisdiction~~ Reservation. The Secretary of Crime Control and Public Safety shall contract with the Town of Butner to provide fire and police protection to those areas within the incorporated limits of the Town of Butner. ~~The territorial jurisdiction of these special police officers shall be the Butner Advisory Council Jurisdiction, as defined in G.S. 122C-413(a).~~ The territorial jurisdiction of these officers shall consist of the property shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety and such additional areas which are within the incorporated limits of the Town of Butner as shown on a map to be kept in the office of the Butner Town Manager and in the office of Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety. The Secretary of Crime Control and Public Safety may organize these special police officers into a public safety department for that territory and may establish it as a division within that principal department as permitted by Chapter 143B of the General Statutes.

(b) After taking the oath of office required for law-enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those counties respectively. Within the territorial jurisdiction stated in subsection (a) of this section, the special police officers have the primary responsibility to enforce the laws of North ~~Carolina~~ Carolina, the ordinances of the Town of Butner, and any rule applicable to ~~that territory~~ the Butner Reservation adopted under authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and also have the powers set forth for firemen in Articles 80, 82 and 83 of Chapter 58 of the General Statutes. Any civil or criminal process to be served on any individual confined at any State facility within the territorial jurisdiction described in subsection (a) of this section shall be forwarded by the sheriff of the county in which the process originated to the Director of the Butner Public Safety Division. Special police officers authorized by this section shall be assigned to transport any individual transferred to or from any State facility within the territorial jurisdiction described in subsection (a) of this section to or from the psychiatric service of the University of North Carolina Hospitals at Chapel Hill.

(c) The contract between the Town of Butner and the Department of Crime Control and Public Safety shall provide that:

(1) The Butner Public Safety Division of the Department of Crime Control and Public Safety shall provide the same level of service to the incorporated area known as the Town of Butner as provided to those areas of the Town of Butner served by Butner Public Safety on January 1, 2007;

(2) The Town of Butner shall pay to the State Treasurer, on or before May 1 of each year, for deposit in the General Fund an amount equal to the amount that actually would have been collected from real and personal property ad valorem taxes due January 5, 2007, in the area incorporated as the Town of Butner effective July 1, 2007, assuming a

tax of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property in said area increased effective July 1 of each year by the increase in the percentage change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, for the southeast region, all urban consumers (or if that data shall no longer be available, the closest equivalent substitute then in publication by the United States Government) for the previous year ended December 31st;

(3) If additional areas are added to the incorporated limits of the Town of Butner, the payments due under the contract shall be increased by an amount equal to the amount that actually would have been collected from real and personal property ad valorem taxes due January 5 of the year of incorporation of such area if said incorporation occurs on or before May 1 or the amount collected for the preceding year if said incorporation occurs prior to May 1 of the then current year assuming a tax of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property in said area and increased yearly as set out above; and

(4) The Town of Butner and the Department of Crime Control and Public Safety may by mutual agreement modify the amounts required to be paid by the Town of Butner pursuant to subdivisions (2) and (3) of this subsection."

SECTION 8. G.S. 122C-409 reads as rewritten:

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

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

SECTION 9. G.S. 122C-410 reads as rewritten:

"§ **122C-410. Authority of county or city over Camp Butner ~~reservation.~~ Reservation; zoning jurisdiction by Town of Butner over State lands.**

(a) A municipality other than the Town of Butner may not annex territory extending into or extend its extraterritorial jurisdiction into the Camp Butner reservation without written approval from the Secretary and the Butner Town Council of each proposed annexation or extension. The Town of Butner may not annex territory extending into or extend its extraterritorial jurisdiction into those portions of the Camp Butner Reservation owned by the State of North Carolina without written approval from the Secretary of each proposed annexation or extension. The procedures, if any, for withdrawing approval granted by the Secretary to an annexation or extension of extraterritorial jurisdiction shall be stated in the notice of approval.

(b) A county ordinance may apply in part or all of the Camp Butner reservation (other than areas within the Town of Butner) if the Secretary gives written approval of the ~~ordinance.~~ ordinance, except that ordinances adopted by a county under Article 18 of Chapter 153A of the General Statutes may not apply in the extraterritorial jurisdiction of the Town of Butner without approval of the Butner Town Council. The Secretary may withdraw ~~his~~ approval of a county ordinance by giving written notification, by certified mail, return receipt requested, to the county. A county ordinance ceases to be effective in the Camp Butner reservation 30 days after the county receives the written notice of the withdrawal of approval. This section does not enhance or diminish the

authority of a county to enact ordinances applicable to the Town of Butner and its extraterritorial jurisdiction.

(c) Notwithstanding any other provision of this Article, no portion of the lands owned by the State as of September 1, 2007, which are located in the extraterritorial jurisdiction or the incorporated limits of the Town of Butner shall be subject to any of the powers granted to the Town of Butner pursuant to Article 19 of Chapter 160A of the General Statutes except as to property no longer owned by the State. If any portion of such property owned by the State of North Carolina as of September 1, 2007, is no longer owned by the State, the Town of Butner may exercise all legal authority granted to the Town pursuant to the terms of its charter or by Article 19 of Chapter 160A of the General Statutes and may do so by ordinances adopted prior to the actual date of transfer. Before the State shall dispose of any property inside the incorporated limits of the Town of Butner or any of that property currently under the control of the North Carolina Department of Health and Human Services or the North Carolina Department of Agriculture and Consumer Services within the extraterritorial jurisdiction of the Town of Butner, southeast of Old Highway 75, northeast of Central Avenue, southwest of 33rd Street, and northwest of "G" Street, by sale or lease for any use not directly associated with a State function, the Town of Butner shall first be given the right of first refusal to purchase said property at fair market value as determined by the average of the value of said property as determined by a qualified appraiser selected by the Secretary and a qualified appraiser selected by the Town of Butner."

SECTION 10. Part 1B of Article 6 of Chapter 122C of the General Statutes (Butner Advisory Council) is repealed.

SECTION 11. Article 6 of Chapter 122C of the General Statutes is amended by adding a new Part to read:

"Part 1D. Butner Commissions.

"**§ 122C-414. Butner Fire and Police Commission.**

(a) There is created a Butner Fire and Police Commission to consist of seven members, to be appointed in accordance with this section.

(b) The Butner Fire and Police Commission shall consist of seven members, three appointed by the Town of Butner, two appointed by the Secretary, one appointed by the Secretary of Crime Control and Public Safety, and one appointed by the Granville County Board of Commissioners. All members appointed by the Town of Butner shall reside within the Town of Butner or its extraterritorial jurisdiction or the Butner Reservation. All members appointed by the Secretary or the Secretary of Crime Control and Public Safety shall either work at or have responsibility for one of the State-run institutions located within the Butner Reservation or shall reside within the Town of Butner and its extraterritorial jurisdiction or the Butner Reservation. The Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety shall serve as an ex officio member of the Butner Fire and Police Commission. No active member of the Butner Public Safety Division of the Department of Crime Control and Public Safety may serve on the Butner Fire and Police Commission.

(c) The Butner Fire and Police Commission has the following duties and responsibilities:

(1) To periodically review, and recommend changes to, the operational policy for the Butner Public Safety Division of the Department of Crime Control and Public Safety.

(2) To consult with the Secretary of the Department of Crime Control and Public Safety in the Department's hiring of the Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety. Such consultation shall include, but not be limited to, the Commission reviewing and providing its comments to the Secretary of the Department of Crime Control and Public Safety on the credentials of the applicants for said position. In performing its functions under this subsection, the Commission members shall have the same access to the applicants' personnel records pursuant to Article 7, Chapter 126 of the General Statutes as the Secretary of the Department of Crime Control and Public Safety and shall be subject to the same restraints concerning the personnel information as set out in said article.

(3) To review and make recommendations to the Secretary of Crime Control and Public Safety concerning the recommended needs of the Butner Public Safety Division of the Department of Crime Control and Public Safety.

(4) To receive and forward citizen complaints received by the Commission concerning the Butner Public Safety Division of the Department of Crime Control and Public Safety to the Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety and the Secretary of the Department of Crime Control and Public Safety as the Commission determines is appropriate.

(5) To perform all such other functions assigned to it by the General Assembly or the Secretary of the Department of Crime Control and Public Safety.

(d) The members of the Butner Fire and Police Commission shall be appointed within 30 days after the effective date of incorporation of the Town of Butner. One member appointed by the Town of Butner, one member appointed by the Secretary, and the member appointed by the Granville County Board of Commissioners shall serve an initial term of two years. The remainder of the members shall serve an initial term of four years. The beginning date of each initial term for the purpose of reappointment shall be September 1, 2007. Thereafter each member shall serve a term of four years.

"**§ 122C-415. Butner Lands Commission.**

(a) There is created a Butner Lands Commission to consist of nine members, to be appointed in accordance with this section.

(b) The Butner Lands Commission shall consist of nine members, two appointed by the Town of Butner, two appointed by Granville County, two appointed by the Secretary, one appointed by the Commissioner of the North Carolina Department of Agriculture and Consumer Services, one appointed by the Secretary of Commerce, and one appointed by the Governor on or before September 1, 2007. The Butner Lands Commission shall make recommendations to the Governor on or before September 1, 2008, concerning:

(1) Land owned by the State of North Carolina in the Butner Reservation that may be well-suited to the creation of a mega-site business and industrial park.

(2) Land owned by the State of North Carolina that should be released for private commercial and residential development.

(3) The use of other lands within the Butner Reservation that will promote agricultural research and development, the development and growth of State institutions, and the preservation of natural lands."

SECTION 12. G.S. 146-30(c) reads as rewritten:

"(c) The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or products of land owned by or under the supervision and control of the Wildlife Resources Commission, or acquired or purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived from the sale of land or timber from land owned by or under the supervision and control of the Department of Agriculture and Consumer Services shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services, to be used for such specific capital improvement projects or other purposes as are provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Environment and Natural Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient. Provided further, the net proceeds derived from the sale of any portion of the land owned by the State in or around the ~~unincorporated area known as~~ Butner Reservation on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the ~~Hospital to provide water and sewers and to bring those streets in the unincorporated area known as Butner not on the State highway system up to standards adequate for acceptance on the system,~~ Department of Health and Human Services to make capital improvements on or to property owned by the State in the Butner Reservation ~~according to a plan adopted by the Department of Administration, and~~ subject to approval by the Office of State Budget and Management, ~~with the approval of the Board of County Commissioners of Granville County,~~ and may be used to build industrial access roads to industries located or to be located on the Butner Reservation, ~~on the Butner lands,~~ to construct new city streets ~~on the Butner lands,~~ in the Butner Reservation, extend water and sewer service on the Butner ~~lands,~~ Reservation, ~~and~~ repair storm drains on the Butner ~~lands.~~Reservation, and for other capital uses on the Reservation as determined by the Secretary."

SECTION 13. G.S. 136-41.1(c) reads as rewritten:

"(c) ~~Notwithstanding the provisions of subsections (a) and (b) of this section and of G.S. 136-41.2, the unincorporated area known as Butner qualifies in all respects for allocation of funds under this section and certification of the population and street mileage of Butner by the North Carolina Department of Health and Human Services is acceptable. Funds allocated to the area for this purpose shall be administered by the Butner Town Manager.~~ Any funds allocated to the unincorporated area known as the Butner Reservation shall be transferred to the Town of Butner."

SECTION 14. Section 1 of Chapter 830 of the 1983 Session Laws reads as rewritten:

"Section 1.(a) The territorial jurisdiction of the Butner Police and Fire Protection District shall include: (i) any property formerly a part of the original Camp Butner reservation, including both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of said reservation and said sanitary ~~district.~~ district, provided, however, that those portions of said lands within the corporate limits of the Town of Butner are removed from the Butner Police and Fire Protection District for the purposes hereof."

SECTION 14.1. Section 1.1 through 14 of this act shall become effective only if the Charter of the Town of Butner is approved under section 5 of the Voting Rights Act of 1965; provided, however, that if the Charter is not approved under section 5 of the Voting Rights Act of 1965 because of any provisions contained in Article III or Article IV of the Charter, the Butner Advisory Council established in accordance with G.S. 122C-413 may make such amendments to the Article III or IV of the Charter as it, in its sole discretion, deems necessary to obtain such approval, and such amendments shall be filed in accordance with G.S. 160A-111. If the Charter is not approved, Sections 1.1 through 14 of this act have no force and effect. If the Charter is approved, then those sections become effective on the first day of the next calendar month that begins more than three days after the approval, except that the persons appointed as temporary officers under Section 3.2 of the Charter may immediately take the oath of office and take such preliminary actions as may be necessary for initial organization, personnel actions, and budget adoption, in such special meetings as may be called under G.S. 160A-71.

SECTION 14.2. The Department of Justice shall be responsible for submitting any information required by G.S. 120-30.9F for preclearance under the Voting Rights Act of 1965.

SECTION 14.3. Section 14 of this act removes the territory within the corporate limits of the Town of Butner from the Butner Police and Fire Protection District provided by Section 1 of Chapter 830 of the 1983 Session Laws, as amended. Since this act will become effective after July 1, 2007, with respect to taxes on property located within the corporate limits, for taxes levied for the 2007-2008 fiscal year, if the incorporation becomes effective, Granville County shall remit to the Town of Butner rather than to the State General Fund the taxes collected for that district on properties located within the corporate limits. Notwithstanding the previous sentence, if Granville County does not bill the Butner Police and Fire Protection District tax for fiscal year 2007-2008 on properties located within the proposed corporate limits until either the incorporation is either precleared or rejected under Section 5, those taxes are released or

refunded if the incorporation is precleared, or shall be billed if the incorporation is rejected.

SECTION 15. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 12:53 p.m. on the 27th day of July, 2007.

Session Law 2007-270 **Senate Bill 335**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARRBORO TO PROVIDE THAT VACANCIES IN THE OFFICE OF ALDERMAN SHALL BE FILLED THROUGH A SPECIAL ELECTION PROCESS IN SOME CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2-2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"**Section 2-2. Election of Mayor and Aldermen.** (a) The mayor and the aldermen shall be elected by the voters of the entire town. The mayor shall be elected for a term of two years and the aldermen shall be elected for staggered terms of four years.

(b) The municipal elections in the Town of Carrboro shall be nonpartisan and decided by a simple plurality. No primary elections shall be held. The municipal elections shall be conducted pursuant to the applicable provisions of Chapter 163 of the North Carolina General Statutes, particularly Articles 23 and 24 thereof.

(c) In the municipal elections to be held in 1987, and every two years thereafter, the mayor shall be elected for a term of two years. In the 1987 election (and the municipal elections held every four years thereafter), three aldermen shall be elected to fill the seats of the aldermen whose terms expire in 1987 (and every four years thereafter). In the municipal elections to be held in 1989 (and every four years thereafter), three aldermen shall be elected to fill the seats of the aldermen whose terms expire in 1989 (and every four years thereafter).

(d) In the general municipal election the candidate receiving the highest number of votes for mayor shall be elected. The three candidates in such election receiving the highest number of votes for the office of alderman shall be elected for full four-year terms. ~~If it is also necessary to elect one or more aldermen to fill the unexpired terms of one or more aldermen whose offices were vacated, the person receiving the fourth highest number of votes for aldermen (and, if necessary, the fifth and the sixth highest number of votes) shall be elected for the unexpired term or terms.~~

(e) Vacancies that occur in the office of mayor shall be filled by appointment of the board of aldermen in accordance with the provisions of G.S. 160A-63.

(f) Notwithstanding the first four sentences of G.S. 160A-63, but subject to this subsection and subsection (g) of this section, whenever a seat on the board of aldermen (other than that of the mayor) becomes vacant at a time when one year or more of the term of office of that seat remains unexpired, such seat shall be filled by a special election. Such special election shall be called by the board of aldermen by the adoption of a resolution pursuant to G.S. 163-287 at the next regular or special meeting of the board held after the vacancy occurs. Such resolution shall not schedule an election during the time period beginning on the first Monday in July and ending on the last

Monday in August in any calendar year. Vacancies that occur in the office of alderman at a time when less than one year of that alderman's term of office remains unexpired shall be filled by appointment of the board of aldermen in accordance with G.S. 160A-63.

(g) If the board of aldermen adopts a resolution calling for a special election to fill one or more vacant board seats as provided in subsection (f) of this section, and the resolution sets as the date of such election the same date as a regular municipal election, then (i) the resolution shall provide that the same filing period, filing fee, and absentee voting period that are applicable to the three seats on the board whose terms are expiring shall also apply to the special election for the vacant seat or seats; (ii) candidates who seek to fill either the expiring seats or the vacant seats shall file and appear on the ballot simply as candidates for election to the board of aldermen (i.e. they shall not be allowed to file or appear on the ballot as a candidate for either a particular vacant seat or an expiring seat); and (iii) the three candidates receiving the highest number of votes for the office of alderman shall be elected to full four-year terms, and the person receiving the fourth highest number of votes for aldermen (and, if necessary, the fifth and the sixth highest number of votes) shall be elected for the remaining two years of the unexpired term of the vacant seat or seats."

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

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-271 **Senate Bill 381**

AN ACT TO PROVIDE A FOUR-YEAR TERM FOR THE MAYOR OF THE TOWN OF CHADBOURN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.3 of the Charter of the Town of Chadbourn, being Chapter 895, Session Laws of 1989, reads as rewritten:

"Sec. 2.3. Mayor; Term of Office; Duties. ~~The~~ In 2007 and quadrennially thereafter, the Mayor shall be elected by all the qualified voters of the Town for a term of ~~two~~ four years or until his or her successor is elected and qualified; shall be the official head of the Town government and preside at meetings of the Council; shall have the right to vote only when there is an equal division on any question or matter before the Council; and shall exercise the powers and duties conferred by law or as directed by the Council."

SECTION 2. Section 3.3 of the Charter of the Town of Chadbourn, being Chapter 895, Session Laws of 1989, reads as rewritten:

"Sec. 3.3. Election of Mayor. A Mayor shall be elected in ~~each~~ a regular municipal election."

SECTION 3. This act is effective upon the certification of the 2007 municipal election for the Mayor of the Town of Chadbourn.

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-272 **House Bill 922**

AN ACT TO ELECT THE BERTIE COUNTY BOARD OF EDUCATION ON A NONPARTISAN BASIS AT THE TIME OF THE GENERAL ELECTION AND TO CHANGE THE TIME WHEN THE MEMBERS OF THE HYDE COUNTY BOARD OF EDUCATION TAKE OFFICE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5(a) of S.L. 2006-171 reads as rewritten:

"**SECTION 5.(a)** Except as modified by this ~~act,~~ section, pursuant to Article 5 of Chapter 115C of the General Statutes, the Bertie County Board of Education consists of five members elected in nonpartisan elections in even-numbered years. Notwithstanding the provisions of G.S. 115C-37(a), as terms expire, the Bertie County Board of Education shall be elected at the time set by G.S. 163-1 for the general election of all other county officers in even-numbered years. The election shall be conducted on a nonpartisan plurality basis, with the results determined in accordance with G.S. 163-292. Candidates shall file notices of candidacy not earlier than noon on the second Monday in June and not later than noon on the first Friday in July. The names of the candidates shall be printed on the ballot without reference to any party affiliations. Vacancies in office shall be filled in accordance with G.S. 115C-37(f). As provided in Chapter 764 of the Session Laws of 1961, and as has been the practice since that time, elections shall be by residency districts. That is, candidates for each of the five seats, and board members elected to those seats, shall reside in particular districts, but all seats shall be voted upon by all eligible voters in the county. The five districts are:

District 1 – Windsor Township.

District 2 – Merry Hill and Whites Townships.

District 3 – Colerain and Mitchell Townships.

District 4 – Roxabel and Woodville Townships.

District 5 – Snakebite and Indian Woods Townships."

SECTION 2. G.S. 115C-37(d) reads as rewritten:

"(d) Members to Qualify. – Each county board of education shall hold a meeting in ~~December~~July following the election. At that meeting, newly elected members of the board of education shall qualify by taking the oath of office prescribed in Article VI, Sec. 7 of the Constitution.

This subsection shall not have the effect of repealing any local or special acts relating to boards of education of any particular counties whose membership to said boards is chosen by a vote of the people."

SECTION 3. Section 2 of this act applies to Hyde County only.

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

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-273 **House Bill 1176**

AN ACT TO PROHIBIT THE RECKLESS USE OF A FIREARM OR BOW AND ARROW AND TO REGULATE HUNTING FROM THE STATE RIGHT-OF-WAY IN TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to use a firearm, bow and arrow, or crossbow carelessly or heedlessly or in willful or wanton disregard for the rights or safety of others. Such reckless use of a weapon includes using a firearm, bow and arrow, or crossbow in a manner that poses a hazard to any person or property or involves the discharge of a firearm, sending a projectile across the property of another.

SECTION 2. It is unlawful to hunt, take, or kill, or to attempt to hunt, take, or kill, any wild animal or wild bird with a firearm, bow and arrow, or crossbow on, from, or across the right-of-way of any State-maintained road, or to discharge any firearm, bow and arrow, or crossbow on, from, or across the right-of-way of any State-maintained road or highway.

SECTION 3. Section 2 of this act does not apply to:

(1) A hunter lawfully recovering dogs so long as all the hunter's weapons remain in a motor vehicle.

(2) A person lawfully engaged in the act of taking bullfrogs with a rimfire weapon.

SECTION 4. It is unlawful for any person to possess a loaded firearm while on the right-of-way of any State-maintained road or highway outside the confines of the passenger area of the vehicle. This section shall not apply to any handgun that the possessor may carry concealed under State or federal law.

SECTION 5. It is unlawful for any person to hunt, take, or kill any wild animal or wild bird with a firearm, bow and arrow, crossbow, or dogs or to possess a loaded firearm outside the confines of the passenger area of the vehicle, on the land of another, without the written permission of the landowner or lessee of the land. The written permission shall be dated and may be valid for no more than one year.

SECTION 6. Section 5 of this act does not apply to:

(1) A person who leases land for the purpose of hunting while hunting on that leased land.

(2) A member of a hunting club with a current and valid membership card while hunting on club land.

SECTION 7. Unless a person's conduct is covered under some other provision of law providing greater punishment, a violation of this act is a Class 3 misdemeanor.

SECTION 8. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 9. This act applies only to Tyrrell County.

SECTION 10. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-274 **Senate Bill 753**

AN ACT DESIGNATING THE MONTH OF OCTOBER AS DISABILITY HISTORY AND AWARENESS MONTH AND REQUIRING LOCAL BOARDS OF EDUCATION TO PROVIDE INSTRUCTION ON DISABILITY HISTORY AND AWARENESS.

Whereas, the Americans with Disabilities Act of 1990 was founded on four principles: inclusion, full participation, economic self-sufficiency, and equality of opportunity for all people with disabilities; and

Whereas, the United States Census Bureau reported in 2000 that there were 1,117,577 people with disabilities in the State of North Carolina out of a total population of 8,046,485; and

Whereas, most families are likely to become affected by someone with some kind of disability; and

Whereas, the National Center for Education Statistics reported that during the 2003-2004 school year, North Carolina served 193,956 students with disabilities under the Individuals with Disabilities Education Act; and

Whereas, research has shown that students with disabilities encounter more difficulty fitting in with their peers, making friends, and becoming involved in school and community-based activities and clubs than their nondisabled peers; and

Whereas, in order to ensure the full inclusion of people with disabilities into society, it is necessary to expand the public's knowledge, awareness, and understanding of the history of disabilities and the disability rights movement; and

Whereas, October is recognized nationally as Disability Employment Awareness Month; and

Whereas, designating Disability History and Awareness Month in North Carolina will increase public awareness and respect for people with disabilities who comprise a substantial percentage of North Carolina's population, teach future generations that people with disabilities have a rich history and have made valuable contributions throughout North Carolina and the United States, and ensure future generations understand that disability is a natural part of life and that people with disabilities have a right to be treated as individuals above all else; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-11. Disability History and Awareness Month.**

The month of October of each year is designated as Disability History and Awareness Month in North Carolina."

SECTION 2. G.S. 115C-81 is amended by adding a new subsection to read:

"(j) Disability History and Awareness. – Each local board of education shall provide instruction on disability, people with disabilities, and the disability rights movement in conjunction with Disability History and Awareness Month, established pursuant to G.S. 103-11. This instruction shall be incorporated into the standard curriculum through measures that include: (i) supplementing existing lesson plans, (ii) holding school assemblies, (iii) hosting disability-focused film festivals, or (iv) organizing other school activities. Local boards of education are encouraged to incorporate individuals with disabilities or knowledgeable guest speakers from the disability community into the delivery of this instruction."

SECTION 3. The constituent institutions of The University of North Carolina are encouraged to conduct and promote activities that provide education, awareness, and understanding of disability history, people with disabilities, and the disability rights movement.

SECTION 4. Nothing in this act shall require the General Assembly to appropriate funds to implement it or require a local school administrative unit to spend

additional funds to implement it. The provisions of this act are not intended to create a burden, financial or otherwise for public schools, teachers, or State institutions of higher learning.

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:04 p.m. on the 27th day of July, 2007.

Session Law 2007-275 **House Bill 232**

AN ACT DIRECTING THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO STUDY STRATEGIES FOR RECOVERING COSTS DUE TO DAMAGED AND LOST TEXTBOOKS.

The General Assembly of North Carolina enacts:

SECTION 1. The Joint Legislative Education Oversight Committee shall study strategies for recovering costs due to damaged and lost textbooks. In the course of the study, the Committee shall consider the scope of the problem and strategies for recouping the replacement costs. The Committee shall report the results of this study to the General Assembly by March 31, 2008.

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:10 p.m. on the 27th day of July, 2007.

Session Law 2007-276 **House Bill 698**

AN ACT TO AMEND EXISTING CHILD WELFARE LAWS TO COMPLY WITH FEDERAL LAW AND REGULATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-506(b) reads as rewritten:

"(b) At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the guardian ad litem, or juvenile, and the juvenile's parent, guardian, custodian, or caretaker ~~an opportunity~~the right to introduce evidence, to be heard in the person's own behalf, and to examine witnesses. The State shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall not be bound by the usual rules of evidence at such hearings."

SECTION 2. G.S. 7B-901 reads as rewritten:

"§ **7B-901. Dispositional hearing.**

The dispositional hearing shall take place immediately following the adjudicatory hearing and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have ~~an opportunity~~the right to present evidence, and they may advise the court concerning the disposition they believe to be in

the best interests of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. The court may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

SECTION 3. G.S. 7B-906(a) reads as rewritten:

"(a) In any case where custody is removed from a parent, guardian, custodian, or caretaker the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter. The director of social services shall make a timely request to the clerk to calendar each review at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the review and its purpose to the parent, the juvenile, if 12 years of age or more, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, indicating the court's impending review. Nothing in this subsection shall be construed to make any foster parent, relative, or preadoptive parent a party to the proceeding solely based on receiving notice and ~~an opportunity~~the right to be heard."

SECTION 4. G.S. 7B-907(a) reads as rewritten:

"(a) In any case where custody is removed from a parent, guardian, custodian, or caretaker, the judge shall conduct a review hearing designated as a permanency planning hearing within 12 months after the date of the initial order removing custody, and the hearing may be combined, if appropriate, with a review hearing required by G.S. 7B-906. The purpose of the permanency planning hearing shall be to develop a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time. Subsequent permanency planning hearings shall be held at least every six months thereafter, or earlier as set by the court, to review the progress made in finalizing the permanent plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile. The Director of Social Services shall make a timely request to the clerk to calendar each permanency planning hearing at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing and its purpose to the parent, the juvenile if 12 years of age or more, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, indicating the court's impending review. Nothing in this provision shall be construed to make any foster parent, relative, or preadoptive parent a party to the proceeding solely based on receiving notice and ~~an opportunity~~the right to be heard."

SECTION 5. G.S. 7B-908 reads as rewritten:

"§ **7B-908. Post termination of parental rights' placement court review.**

(a) The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing agency, the guardian ad litem, the child, any foster parent, relative, or preadoptive parent providing care for the child, and any other person or agency the court determines is likely to aid in the review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable,

and necessary to determine the needs of the juvenile and the most appropriate disposition.

(b) The court shall conduct a placement review not later than six months from the date of the termination hearing when parental rights have been terminated by a petition brought by any person or agency designated in G.S. 7B-1103(2) through (5) and a county director or licensed child-placing agency has custody of the juvenile. The court shall conduct reviews every six months thereafter until the juvenile is ~~placed for adoption and the adoption petition is filed by the adoptive parents:~~the subject of a decree of adoption:

(1) No more than 30 days and no less than 15 days prior to each review, the clerk shall give notice of the review to the juvenile if the juvenile is at least 12 years of age, the legal custodian of the juvenile, any foster parent, relative, or preadoptive parent providing care for the juvenile, the guardian ad litem, if any, and any other person or agency the court may specify. Only the juvenile, if the juvenile is at least 12 years of age, the legal custodian of the juvenile, any foster parent, relative, or preadoptive parent providing care for the juvenile, and the guardian ad litem shall attend the review hearings, except as otherwise directed by the court. Nothing in this subdivision shall be construed to make any foster parent, relative, or preadoptive parent a party to the proceeding solely based on receiving notice and ~~an opportunity~~the right to be heard. Any individual whose parental rights have been terminated shall not be considered a party to the proceeding unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal.

(2) If a guardian ad litem for the juvenile has not been appointed previously by the court in the termination proceeding, the court, at the initial six-month review hearing, may appoint a guardian ad litem to represent the juvenile. The court may continue the case for such time as is necessary for the guardian ad litem to become familiar with the facts of the case.

(c) The court shall consider at least the following in its review:

(1) The adequacy of the plan developed by the county department of social services or a licensed child-placing agency for a permanent placement relative to the juvenile's best interests and the efforts of the department or agency to implement such plan;

(2) Whether the juvenile has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency; and

(3) The efforts previously made by the department or agency to find a permanent home for the juvenile.

(d) The court, after making findings of fact, shall affirm the county department's or child-placing agency's plans or require specific additional steps which are necessary to accomplish a permanent placement which is in the best interests of the juvenile.

(e) If the juvenile ~~has been placed for~~is the subject of a decree of adoption prior to the date scheduled for the review, written notice of ~~said placement~~the issuance of the decree of adoption shall be given to the clerk to be placed in the court file, and the

review hearing shall be cancelled with notice of said cancellation given by the clerk to all persons previously notified."

SECTION 6. G.S. 7B-909 reads as rewritten:

"§ **7B-909. Review of agency's plan for placement.**

(a) The director of social services or the director of the licensed private child-placing agency shall promptly notify the clerk to calendar the case for review of the department's or agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile matters in any case where:

(1) One parent has surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination of parental rights proceedings have not been instituted against the nonsurrendering parent within six months of the surrender by the other parent, or

(2) Both parents have surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and that juvenile has not been placed for adoption within six months from the date of the more recent parental surrender.

~~(b) In any case where an adoption is dismissed or withdrawn and the juvenile returns to foster care with a department of social services or a licensed private child-placing agency, then the department of social services or licensed child-placing agency shall notify the clerk, within 30 days from the date the juvenile returns to care, to calendar the case for review of the agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile matters.~~

(c) Notification of the court ~~required~~ under ~~subsection (a) or (b) of~~ this section shall be by a petition for review. The petition shall set forth the circumstances necessitating the review under subsection (a) ~~or (b)~~ of this section. The review shall be conducted within 30 days following the filing of the petition for review unless the court shall otherwise direct. The court shall conduct reviews every six months until the juvenile is ~~placed for adoption and the adoption petition is filed by the adoptive parents.~~the subject of a decree of adoption. The initial review and all subsequent reviews shall be conducted pursuant to G.S. 7B-908. Any individual whose parental rights have been terminated shall not be considered a party to the review unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal."

SECTION 7. G.S. 48-1-101(5a) reads as rewritten:

"In this Chapter, the following definitions apply:

…

(5a) "Criminal history" means a county, State, or federal ~~criminal history of~~ conviction of a felony by a court of competent jurisdiction or a pending felony indictment of a ~~crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children, including the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and~~

~~Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include~~crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states."

SECTION 8. G.S. 48-3-303(d) reads as rewritten:

"(d) The agency shall conduct an investigation for any criminal record as permitted by law. If a prospective adoptive parent is seeking to adopt a minor who is in the custody or placement responsibility of a county department of social services, a county department of social services shall have the prospective adoptive parent's criminal history and the criminal histories of all individuals 18 years of age or older who reside in the prospective adoptive home investigated pursuant to G.S. 48-3-309, and ~~based on the criminal history,~~in accordance with G.S. 48-3-309(b), make a determination as to the prospective adoptive parent's fitness to have responsibility for the safety and well-being of children and as to whether other individuals required to be checked are fit for an adoptive child to reside with them in the home."

SECTION 9. G.S. 48-3-309(b) reads as rewritten:

"(b) A county department of social services shall issue an unfavorable preplacement assessment to a prospective adoptive parent if an individual required to submit to a criminal history check pursuant to subsection (a) of this section has a criminal history. A county department of social services shall issue an unfavorable preplacement assessment to a prospective adoptive parent if the county department of social services determines, pursuant to G.S. 48-3-303(e), that, based on other criminal convictions, whether felony or misdemeanor, ~~the criminal~~ the prospective adoptive parent is unfit to have responsibility for the safety and well-being of children or other individuals required to be checked are unfit for an adoptive child to reside with them in the home."

SECTION 10. G.S. 48-3-309(d) reads as rewritten:

"(d) At the time of the request for a preplacement assessment or at a subsequent time prior to placement, any individual whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

"**NOTICE**

MANDATORY CRIMINAL HISTORY CHECK: NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED PRIOR TO PLACEMENT ON PROSPECTIVE ADOPTIVE PARENTS SEEKING TO ADOPT A MINOR WHO IS IN THE CUSTODY OR PLACEMENT RESPONSIBILITY OF A COUNTY DEPARTMENT OF

SOCIAL SERVICES AND ON ALL PERSONS 18 YEARS OF AGE OR OLDER WHO RESIDE IN THE PROSPECTIVE ADOPTIVE HOME.

"Criminal history" means a county, ~~state,~~State, or federal ~~criminal history of~~ conviction of a felony by a court of competent jurisdiction or a pending felony indictment of a ~~crime, whether a misdemeanor or a felony, that bears upon a prospective adoptive parent's fitness to have responsibility for the safety and well-being of children and whether other individuals required to be checked are fit for an adoptive child to reside with them in the home, including the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5;~~crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have responsibility for the safety and well being of children or have an adoptive child reside with you, you shall have the opportunity to complete, or challenge the accuracy of, the information contained in the SBI or FBI identification records.

If the prospective adoptive parent is denied a favorable preplacement assessment by a county department of social services as a result of a criminal history check as required under G.S. 48-3-309(a), the prospective adoptive parent may request a review of the assessment pursuant to G.S. 48-3-308(a).

Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor."

Refusal to consent to a criminal history check by any individual required to be checked under G.S. 48-3-309(a) is grounds for the issuance by a county department of social services of an unfavorable preplacement assessment. Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor."

SECTION 11. G.S. 131D-10.2(6a) reads as rewritten:

"For purposes of this Article, unless the context clearly implies otherwise:

…

(6a) "Criminal History" means a county, ~~state,~~State, or federal ~~criminal history of~~ conviction of a felony by a court of competent jurisdiction or a pending felony indictment of a ~~crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for~~

~~the safety and well-being of children, including the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include~~crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states.

…."

SECTION 12. G.S. 131D-10.3A(c) reads as rewritten:

"(c) The Department shall prohibit an individual from providing foster care by denying or revoking the license to provide foster care if an individual required to submit to a criminal history check pursuant to subsection (a) of this section has a criminal history. The Department may prohibit an individual from providing foster care by denying or revoking the license to provide foster care if the Department determines that the safety and well-being of a child placed in the home for foster care would be at risk based on other criminal convictions, whether felony or misdemeanor. ~~the criminal history of the individuals required to be checked pursuant to subsection (a) of this section.~~"

SECTION 13. G.S. 131D-10.3A(e) reads as rewritten:

"(e) At the time of application, the individual whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

"NOTICE

MANDATORY CRIMINAL HISTORY CHECK

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED ON ALL PERSONS 18 YEARS OF AGE OR OLDER WHO RESIDE IN A LICENSED FAMILY FOSTER HOME.

"Criminal history" includes any county, ~~state,~~State, and federal ~~convictions~~ conviction of a felony by a court of competent jurisdiction or pending ~~indictments of any crime, of any of the~~

~~following crimes: the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5;~~felony indictment of a crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have a foster child reside with you, you shall have the opportunity to complete or challenge the accuracy of the information contained in the SBI or FBI identification records.

If licensure is denied or the foster home license is revoked by the Department of Health and Human Services as a result of the criminal history check, if you are a foster parent, or are applying to become a foster parent, you may request a hearing pursuant to Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act.

Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor."

Refusal to consent to a criminal history check is grounds for the Department to deny or revoke a license to provide foster care. Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor."

SECTION 14. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:10 p.m. on the 27th day of July, 2007.

Session Law 2007-277 **Senate Bill 1030**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO DEVELOP A FRAMEWORK FOR A REACHING ONE'S POTENTIAL FOR EXCELLENCE (ROPE) SCHOLARS PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Board of Education, in cooperation with The University of North Carolina Board of Governors and the State Board of Community Colleges, shall develop a framework for a Reaching One's Potential for Excellence (ROPE) Scholars Program. The purpose of the ROPE Scholars Pilot Program shall be (i) to strengthen middle grades education in order to provide students with the opportunity to graduate from high school with the core academic skills needed for postsecondary education and high-skilled employment, and (ii) thereby to reduce the high school dropout rate, increase high school and college graduation rates, and decrease the need for remediation in institutions of higher education.

The framework for the ROPE Scholars Program shall require participating schools to have or be afforded access to high speed, broadband Internet resources and to use SAS EVAAS (Education Value Added Assessment System) or a comparable software system to track student academic progress over time.

SECTION 1.(b) It is the intent of the ROPE Scholars Program to:

(1) Reduce class size to one teacher to every 17 students;

(2) Provide annual salary incentives of up to five thousand dollars ($5,000) to teachers certified in any high-need subject matter area or to support personnel;

(3) Provide a coordinator position at each participating school to assist in community and parental support;

(4) Encourage students participating in the program, through agreements executed between the local school administrative unit and students and their parents or guardians, to:

a. Maintain a ninety-five percent (95%) attendance rate each year;

b. Achieve a minimum of a "B" average;

c. Take the PSAT and the SAT or the ACT and achieve an adequate score, as determined by the State Board of Education;

d. Meet the standards for admission established by the Board of Governors of The University of North Carolina;

e. Engage in community service work each month during the school year for the number of hours determined by the State Board of Education; and

f. Evidence good character by not engaging in unlawful conduct.

(5) Provide students who successfully participate in the program with college scholarships.

SECTION 1.(c) The State Board of Education shall develop a competitive process through which local school administrative units may apply to participate in the pilot program. The State Board shall select three units from different geographic areas of the State, one of which shall be urban and one of which shall be rural. The Program shall be implemented beginning with the 2009-2010 school year.

SECTION 1.(d) The State Board of Education shall develop a process to evaluate the effectiveness of the Program.

SECTION 1.(e) The State Board of Education shall deliver a draft proposed framework to the Joint Legislative Education Oversight Committee by October 15, 2007, and a final proposal to the same committee by December 15, 2007. The report shall include the cost of implementing the pilot program and shall indicate the State laws, rules, and policies that would preclude the implementation of the pilot.

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:11 p.m. on the 27th day of July, 2007.

Session Law 2007-278 **Senate Bill 884**

AN ACT TO ELIMINATE THE PROHIBITION AGAINST CERTAIN SPOUSES OF MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA, MEMBERS OF THE BOARD OF TRUSTEES OF A CONSTITUENT INSTITUTION, OR MEMBERS OF THE STATE BOARD OF COMMUNITY COLLEGES FROM BEING EMPLOYEES OR OFFICERS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-7(b) reads as rewritten:

"(b) ~~From and after July 1, 1973, no~~No member of the General Assembly or officer or employee of the ~~State or of~~ State, The University of North Carolina, or any constituent institution ~~or spouse of any such member, officer or employee~~ may be a member of the Board of Governors. No spouse of a member of the General Assembly, or of an officer or employee of The University of North Carolina, or of any constituent institution may be a member of the Board of Governors. Any member of the Board of Governors who is elected or appointed to the General Assembly or who becomes an officer or employee of the State or of any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes ~~such~~ an officer or employee of The University of North Carolina or of any constituent institution shall be deemed thereupon to resign from his membership on the Board of Governors."

SECTION 2. G.S. 116-31(h) reads as rewritten:

"(h) ~~From and after July 1, 1973, no~~No member of the General Assembly or officer or employee of the ~~State or of~~ State, The University of North Carolina, or any constituent institution ~~or spouse of any such member, officer or employee~~ shall be eligible for election or appointment as a trustee. No spouse of a member of the General Assembly, or of an officer or employee of a constituent institution may be a trustee of that constituent institution. Any trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the ~~State or of~~State, The University of North Carolina, or any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes ~~such~~ an officer or employee of that constituent institution shall be deemed thereupon to resign from his membership on the board of trustees."

SECTION 3. G.S. 115D-2.1(d) reads as rewritten:

"(d) No member of the General Assembly, no officer or employee of the State, and no officer or employee of an institution under the jurisdiction of the State Board ~~and no spouse of any of those persons,~~ shall be eligible to serve on the State Board. No

spouse of a member of the General Assembly or of an officer or employee of the Community College System or of an institution under the jurisdiction of the State Board shall be eligible to serve on the State Board. ~~Furthermore, no~~No person who within the prior five years has been an employee of the Community Colleges System Office shall be eligible to serve on the State Board."

SECTION 4. G.S. 116-233(c) reads as rewritten:

"(c) No member of the General Assembly or officer or employee of the ~~State or of~~State, the ~~School~~ School, The University of North Carolina, or of any constituent institution of The University of North Carolina, ~~or the spouse of any such member, officer or employee,~~ shall be eligible to be appointed to the Board of ~~Trustees;~~Trustees except as specified under subdivision (3) of subsection (a) of this section. No spouse of a member of the General Assembly, or of an officer or employee of the school may be a member of the Board of Trustees. ~~and any~~Any appointed trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State, except as specified under subdivision (3) of subsection (a) of this section, ~~of the School, or of a constituent institution of The University of North Carolina,~~ or whose spouse is elected or appointed to the General Assembly or becomes such an officer or ~~employee,~~employee of the School, shall be deemed thereupon to resign from his or her membership on the Board of Trustees. This subsection does not apply to ex officio members."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:12 p.m. on the 27th day of July, 2007.

Session Law 2007-279 **Senate Bill 670**

AN ACT TO PROVIDE THAT CITY ORDINANCES, COUNTY ORDINANCES, AND DEED RESTRICTIONS, COVENANTS, AND OTHER SIMILAR AGREEMENTS CANNOT PROHIBIT OR HAVE THE EFFECT OF PROHIBITING THE INSTALLATION OF SOLAR COLLECTORS NOT FACING PUBLIC ACCESS OR COMMON AREAS ON DETACHED SINGLE-FAMILY RESIDENCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-201. Limitations on regulating solar collectors.**

(a) Except as provided in subsection (c) of this section, no city ordinance shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence, and no person shall be denied permission by a city to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence.

(b) This section does not prohibit an ordinance regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the

ordinance does not have the effect of preventing the reasonable use of a solar collector for a detached single-family residence.

(c) This section does not prohibit an ordinance that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground:

(1) On the façade of a structure that faces areas open to common or public access;

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or

(3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party."

SECTION 2. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-144. Limitations on regulating solar collectors.**

(a) Except as provided in subsection (c) of this section, no county ordinance shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence. No person shall be denied permission by a county to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence.

(b) This section does not prohibit an ordinance regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the ordinance does not have the effect of preventing the reasonable use of a solar collector for a detached single-family residence.

(c) This section does not prohibit an ordinance that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground:

(1) On the façade of a structure that faces areas open to common or public access;

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or

(3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party."

SECTION 3. Chapter 22B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Deed Restrictions, Covenants, and Other Agreements Prohibiting Solar Collectors.

"**§ 22B-20. Deed restrictions and other agreements prohibiting solar collectors.**

(a) The intent of the General Assembly is to protect the public health, safety, and welfare by encouraging the development and use of solar resources and by prohibiting deed restrictions, covenants, and other similar agreements that could have the ultimate effect of driving the costs of owning and maintaining a residence beyond the financial means of most owners.

(b) Except as provided in subsection (d) of this section, any deed restriction, covenant, or similar binding agreement that runs with the land that would prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence on land subject to the deed restriction, covenant, or agreement is void and unenforceable.

(c) This section does not prohibit a deed restriction, covenant, or similar binding agreement that runs with the land that would regulate the location or screening of solar collectors as described in subsection (b) of this section, provided the deed restriction, covenant, or similar binding agreement does not have the effect of preventing the reasonable use of a solar collector for a detached single-family residence.

(d) This section does not prohibit a deed restriction, covenant, or similar binding agreement that runs with the land that would prohibit the location of solar collectors as described in subsection (b) of this section that are visible by a person on the ground:

(1) On the façade of a structure that faces areas open to common or public access;

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or

(3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

(e) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party."

SECTION 4. This act becomes effective October 1, 2007. Section 3 of this act applies to deed restrictions, covenants, or similar binding agreements that run with the land recorded on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:12 p.m. on the 27th day of July, 2007.

Session Law 2007-280 **House Bill 648**

AN ACT TO REVISE AND RECODIFY THE LAW AUTHORIZING THE DIVISION OF CORRECTION ENTERPRISES WITHIN THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 148 of the General Statutes is amended by adding a new Article to read:

"Article 14.

"Correction Enterprises.

"**§ 148-123. Authorization for Correction Enterprises.**

The Division of Correction Enterprises is established as a division of the Department of Correction. The Division of Correction Enterprises may develop and operate industrial, agricultural, and service enterprises that employ incarcerated offenders in an effort to provide them with meaningful work experiences and rehabilitative opportunities that will increase their employability upon release from prison. Enterprises operated under this Article shall be known as "Correction Enterprises."

"**§ 148-124. Purposes of Correction Enterprises.**

Correction Enterprises shall serve all of the following purposes to:

(1) Provide incarcerated offenders a work and training environment that emulates private industry.

(2) Provide incarcerated offenders with training opportunities that allow them to increase work skills and employability upon release from prison.

(3) Provide quality goods and services.

(4) Aid victims by contributing a portion of its proceeds to the Crime Victims Compensation Fund.

(5) Generate sufficient funds from the sale of goods and services to be a self-supporting operation.

"**§ 148-125. Correction Enterprises Fund.**

(a) All revenues from the sale of articles and commodities manufactured or produced by Correction Enterprises shall be deposited with the State Treasurer to be kept and maintained as a special revolving working-capital fund designated "Correction Enterprises Fund."

(b) Revenue in the Correction Enterprises Fund shall be applied first to capital and operating expenditures, including salaries and wages of personnel necessary to develop and operate Correction Enterprises and incentive wages for inmates employed by Correction Enterprises or participating in work assignments established by the Division of Prisons. Of the remaining revenue in the Fund, five percent (5%) of the net proceeds, before expansion costs, shall be credited to the Crime Victims Compensation Fund established in G.S. 15B-23 as soon as practicable after net proceeds have been determined for the previous year. At the direction of the Governor, the remainder shall be used for other purposes within the State prison system or shall be transferred to the General Fund.

(c) The Correction Enterprises Fund shall be the source of all incentive wages and allowances paid to inmates employed by Correction Enterprises and inmates participating in work assignments established by the Division of Prisons.

"**§ 148-126. Powers and responsibilities.**

In order to fulfill the purposes set forth in G.S. 148-124, the Division of Correction Enterprises is authorized and empowered to take all actions necessary in the operation of its enterprises, including any of the following actions to:

(1) Develop and operate industrial, agricultural, and service enterprises either within prison facilities or outside the prison facilities.

(2) Plan and establish new industrial, agricultural, and service enterprises so long as any new enterprise is specifically approved by the Governor as required by G.S. 66-58(f).

(3) Employ inmates and any other personnel that may be necessary in the operation of Correction Enterprises.

(4) Expand, diminish, or discontinue any enterprise operating under its authority.

(5) Purchase any machinery, equipment, materials, and supplies required in the operation of its enterprises.

(6) Market and sell the goods and services produced by Correction Enterprises.

(7) Determine the prices at which products and services produced by inmate labor shall be sold.

(8) Execute and enter into contracts.

(9) Establish and operate an enterprise that complies with all applicable federal laws and guidelines required by the federal Prison Industry Enhancement Certification Program (Justice Assistance Act of 1984: Public Law 98-473, Section 819).

(10) Establish policies and procedures regarding the operation of Correction Enterprises.

(11) Take any action necessary and appropriate for the effective operation of its enterprises, so long as that action complies with applicable State and federal laws.

"**§ 148-127. Distribution of products and services.**

The Division of Correction Enterprises is empowered and authorized to market and sell products and services produced by Correction Enterprises to any of the following entities:

(1) Any public agency or institution owned, managed, or controlled by the State.

(2) Any county, city, or town in this State.

(3) Any federal, state, or local public agency or institution in any other state of the union.

(4) An entity or organization that has tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code and also receives local, state, or federal grant funding.

(5) Any current employee of the State of North Carolina, verified through State-issued identification, but a State employee's purchases may not exceed two thousand five hundred dollars ($2,500) during any calendar year. Products purchased by State employees under this section may not be resold.

"**§ 148-128. Inmate wages and conditions of employment.**

(a) The Secretary shall adopt rules for the administration and management of personnel policies for inmates who work for Correction Enterprises, including wages, working hours, training requirements, and conditions of employment. The Secretary shall adopt rules to ensure that inmates participating in the Prison Industry Enhancement Certification Program comply with all applicable federal rules and regulations.

(b) No inmate working for Correction Enterprises shall be paid more than three dollars ($3.00) per day unless applicable State or federal laws require a higher salary. Inmates who are employed as part of the Prison Industry Enhancement Certification Program shall be paid in accordance with applicable federal rules and regulations.

"**§ 148-129. Preference for Department of Correction products.**

All departments, institutions, and agencies of this State that are supported in whole or in part by the State shall give preference to Correction Enterprises products in purchasing articles, products, and commodities that these departments, institutions, and

agencies require and that are manufactured or produced within the State prison system and offered for sale to them by Correction Enterprises. No article or commodity available from Correction Enterprises shall be purchased by any State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required. The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials, and equipment required by the State government or any of its departments, institutions, or agencies under competitive bidding shall not apply to articles or commodities available from Correction Enterprises. The Division of Correction Enterprises shall be required to keep the price of such articles or commodities substantially in accord with that paid by governmental agencies for similar articles and commodities of equivalent quality."

SECTION 2. G.S. 148-2(b) is repealed.

SECTION 3. G.S. 148-18(a) reads as rewritten:

"(a) ~~Prisoners employed in prison enterprises shall be compensated at hourly rates fixed by the Department of Correction's rules and regulations, or on the basis of production quotas established by prison enterprises, for work performed; provided, that no prisoner working for prison enterprises shall be paid more than three dollars ($3.00) per day from funds made available by the Prison Enterprises Fund.~~

Prisoners employed by Correction Enterprises shall be compensated as set forth in Article 14 of this Chapter. Prisoners ~~employed other than by prison enterprises and those involved in the maintenance and housekeeping of the prison system,~~participating in work assignments established by the Division of Prisons shall be compensated at rates fixed by the Department of Correction's rules and regulations; provided, that no prisoner so paid shall receive more than one dollar ($1.00) per ~~day.~~day, unless the Secretary determines that the work assignment requires special skills or training. Upon approval of the Secretary, inmates working in job assignments requiring special skills or training may be paid up to three dollars ($3.00) per day. ~~The source of wages and allowances provided inmates who are not employed by prison enterprises shall be funds provided by the Department of Transportation to the Department of Correction for this purpose. The provisions of this subsection shall not apply to wages paid by private prison enterprises conducted pursuant to G.S. 148-70.~~The Correction Enterprises Fund shall be the source of wages and allowances provided to inmates who are employed by the Department of Correction in work assignments established by the Division of Prisons."

SECTION 4. G.S. 148-70 reads as rewritten:

"§ **148-70. Management and care of ~~inmates; prison industries; disposition of products of inmate labor.~~inmates.**

The State Department of Correction in all contracts for labor shall provide for feeding and clothing the inmates and shall maintain, control and guard the quarters in which the inmates live during the time of the contracts; and the Department shall provide for the guarding and working of such inmates under its sole supervision and control. The Department may make such contracts for the hire of the inmates confined in the State prison as may in its discretion be proper. ~~In accordance with the provisions of Article 11 of Chapter 66 of the General Statutes, the Department may use the labor of inmates confined in the State prison in work on farms and manufacturing, either within or without the State prison. The Department may dispose of the products of the labor of~~

~~the inmates, either in farming or in manufacturing or in other industry at the State Prison System to any public institution owned, managed, or controlled by the State, or to any county, city or town in this State, or to any federal, state, or local public institution in any other state of the union. Provided however, no manufacturing or other industry shall be established, supervised or controlled by the Department unless specifically approved by the Governor pursuant to G.S. 66-58(f).~~

~~All departments, institutions and agencies of this State which are supported in whole or in part by the State shall give preference to Department of Correction products in purchasing articles, products, and commodities which these departments, institutions, and agencies require and which are manufactured or produced within the State prison system and offered for sale to them by the Department of Correction, and no article or commodity available from the Department of Correction shall be purchased by any such State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration, or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required. The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials and equipment required by the State government or any of its departments, institutions or agencies under competitive bidding shall not apply to articles or commodities available from the Department of Correction, but the Department of Correction shall be required to keep the price of such articles or commodities substantially in accord with that paid by governmental agencies for similar articles and commodities of equivalent quality as determined by the Secretary by reference to competitive bidding as required by law.~~

~~In addition, the Secretary of Correction may lease one or more buildings or portions of buildings on the grounds of any State correctional institution or location under Department of Correction control, together with the real estate needed for reasonable access to such buildings, for a term not to exceed 20 years, to a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of products or any other commercial enterprise deemed by the Secretary to provide employment opportunities for inmates in meaningful jobs for wages. A lease entered into pursuant to this section may include provisions for the remodeling or construction of buildings. Each lease shall be approved by the Governor and Council of State and may be entered into only after consultation with the Joint Legislative Commission on Governmental Operations. Each lease negotiated and concluded pursuant to this section shall include and shall be valid only so long as the lessee adheres to the following provisions:~~

- ~~(1) All persons employed in the factory or other commercial enterprise operated in or on the leased property, except the lessee's supervisory employee and necessary training personnel, shall be inmates who are approved for such employment by the Secretary or his designee.~~
- ~~(2) The factory or other commercial enterprise operated in or on the leased property shall observe at all times such practices and procedures regarding security as the lease may specify or as the Secretary may stipulate.~~
- ~~(3) The factory or other commercial enterprise operated on the leased property shall be deemed a private enterprise and subject to all the laws and lawfully adopted rules of this State governing the operation of similar business enterprises elsewhere, except that the provisions of~~

~~G.S. 66-58 shall not apply to the industries or products of such private enterprise.~~

~~The Secretary shall adopt rules for the administration and management of personnel policies for prisoner workers including wages, working hours, and conditions of employment.~~

~~Except as prohibited by applicable provisions of the United States Code, inmates of correctional institutions of this State may be employed in the manufacture and processing of products and services for introduction into interstate commerce, so long as they are paid no less than the prevailing minimum wage.~~"

SECTION 4.1. G.S. 66-58(b)(16) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

…

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for VA Medical Centers of the United States Department of Veterans Affairs, the Governor Morehead ~~School~~ School, and the North Carolina School for the Deaf.

…."

SECTION 5. G.S. 66-58(f) reads as rewritten:

"(f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the Department of Corrections of facilities for the manufacture of any product or the providing of any service pursuant to ~~G.S. 148-70~~Article 14 of Chapter 148 of the General Statutes not regulated by the provisions of subsection (c) ~~hereof,~~of this section shall be subject to the prior approval of the Governor, with biennial review by the General Assembly, at the beginning of each fiscal year commencing after October 1, 1975. The Department of Correction shall file with the Director of the Budget quarterly reports detailing prison enterprise operations in such a format as shall be required by the Director of the Budget."

SECTION 6. This act becomes effective August 1, 2007, but the first sentence of G.S. 148-127(5) as enacted by this act expires on July 1, 2012.

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:14 p.m. on the 27th day of July, 2007.

Session Law 2007-281 **Senate Bill 879**

AN ACT PROVIDING FOR ADDITIONAL PROJECT MANAGERS ON INFORMATION TECHNOLOGY PROJECTS AND INCREASING THE THRESHOLD FOR THE MANDATORY DESIGNATION OF PROJECT MANAGER ASSISTANTS BY THE STATE CHIEF INFORMATION OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.72E reads as rewritten:

"§ **147-33.72E. Project management standards.**

(a) Agency Responsibilities. – Each agency shall provide for ~~a project manager~~ one or more project managers who ~~meets~~ meet the applicable quality assurance standards for each information technology project that is subject to approval under G.S. 143-33.72C(a). ~~The~~ Each project manager shall be subject to the review and approval of the State Chief Information Officer.

~~The~~ Each agency project manager shall provide periodic reports to the project management assistant assigned to the project by the State CIO under subsection (b) of this section. The reports shall include information regarding project costs, issues related to hardware, software, or training, projected and actual completion dates, and any other information related to the implementation of the information technology project.

(b) State Chief Information Officer Responsibilities. – The State Chief Information Officer shall designate a project management assistant from the Office of Information Technology Services for ~~projects that receive~~ any project that receives approval under ~~G.S. 147-33.72C(a)~~. G.S. 147-33.72C(a) if the project costs or is expected to cost more than one million dollars ($1,000,000), whether the project is undertaken in single or multiple phases or components. The State Chief Information Officer may designate a project management assistant for any other information technology project.

The project management assistant shall advise the agency with the initial planning of a project, the content and design of any request for proposals, contract development, procurement, and architectural and other technical reviews. The project management assistant shall also monitor agency progress in the development and implementation of the project and shall provide status reports to the State Chief Information Officer, including recommendations regarding continued approval of the project."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:15 p.m. on the 27th day of July, 2007.

Session Law 2007-282 **Senate Bill 876**

AN ACT INCREASING THE AMOUNT OF TIME AN AGENCY HAS TO REQUEST A REVIEW OF A DECISION BY THE STATE CHIEF INFORMATION OFFICER TO DENY OR SUSPEND APPROVAL OF AN INFORMATION TECHNOLOGY PROJECT OR DENY A REQUEST FOR A DEVIATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.72D(a) reads as rewritten:

"(a) Agency Request for Review. – In any instance where the State CIO has denied or suspended the approval of an information technology project, or has denied an agency's request for deviation pursuant to G.S. 147-33.84, the agency may request a committee review of the State CIO's decision. The agency shall submit a written request for review to the State Controller within ~~10~~ 15 working days following the agency's receipt of the State CIO's written grounds for denial or suspension. The agency's request for review shall specify the grounds for its disagreement with the State CIO's

determination. The agency shall include with its request for review a copy of the State CIO's written grounds for denial or suspension."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:16 p.m. on the 27th day of July, 2007.

Session Law 2007-283 **House Bill 1357**

AN ACT TO ALLOW A CHILD WHO IS NOT A DOMICILIARY OF A LOCAL SCHOOL ADMINISTRATIVE UNIT TO ATTEND, WITHOUT PAYMENT OF TUITION, THE PUBLIC SCHOOLS OF THAT UNIT IF THE CHILD RESIDES WITH AN ADULT WHO IS A DOMICILIARY OF THAT UNIT BECAUSE THE CHILD'S PARENT OR GUARDIAN HAS BEEN CALLED TO ACTIVE MILITARY DUTY OR ACTIVE DUTY WITH THE NATIONAL GUARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366(a3)(1) is amended by adding a new sub-subdivision to read:

"§ **115C-366. Assignment of student to a particular school.**

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if all of the following apply:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of any one of the following:

…

g. The parent or legal guardian is on active military duty and is deployed out of the local school administrative unit in which the student resides. For purposes of this sub-subdivision, the term 'active duty' does not include periods of active duty for training for less than 30 days. Assignment under this sub-subdivision is only available if some evidence of the deployment is tendered with the affidavits required under subdivision (3) of this subsection."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:17 p.m. on the 27th day of July, 2007.

Session Law 2007-284 **House Bill 26**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON THE EDUCATION OF STUDENTS WITH DISABILITIES TO DIRECT THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO REPORT ON THE EFFICACY OF THE PREPARATION OF TEACHERS TO TEACH STUDENTS WITH DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that additional data are needed to determine the adequacy with which the State's teacher education programs are preparing teachers to teach students with disabilities. The Board of Governors of The University of North Carolina, in consultation with the State Board of Education, shall study the effectiveness of the current teacher education programs in preparing new teachers to educate students with disabilities.

SECTION 2. The Board of Governors shall report its findings and recommendations to the Joint Legislative Education Oversight Committee by May 15, 2008. The report shall include (i) evidence of the effectiveness of the current teacher education programs in preparing students to educate students with disabilities; (ii) documentation that the requirement for including specified demonstrated competencies in G.S. 115C-296(b) is being met; and (iii) identification of changes needed in teacher education programs to better prepare teachers to teach students with disabilities, and a timeline for the implementation of the changes.

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:22 p.m. on the 27th day of July, 2007.

Session Law 2007-285 **Senate Bill 630**

AN ACT TO AUTHORIZE THE NORTH CAROLINA ARBORETUM TO ESTABLISH A CAMPUS LAW ENFORCEMENT AGENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-40.5 reads as rewritten:

"§ **116-40.5. Campus law enforcement agencies.**

(a) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, or the Board of Directors of the North Carolina Arboretum, may establish a campus law enforcement agency and employ campus police officers. Such officers shall meet the requirements of Chapter 17C of the General Statutes, shall take the oath of office prescribed by Article VI, Section 7 of the Constitution, and shall have all the powers of law enforcement officers generally. The territorial jurisdiction of a campus police officer shall include all property owned or leased to the institution employing ~~him~~ the campus police officer and that portion of any public road or highway passing through such property or immediately adjoining it, wherever located.

(b) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, or the Board of Directors of the North Carolina Arboretum, having established a campus law enforcement agency pursuant to subsection (a) of this section, may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into any or all of the municipality's jurisdiction and to determine the circumstances in which this extension of authority may be granted.

(c) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, or the Board of Directors of the North Carolina Arboretum, having established a campus law enforcement agency pursuant to subsection (a) of this section, may enter into joint agreements with the governing board of any county, and with the consent of the sheriff, to extend the law enforcement authority of campus police officers into any or all of the county's jurisdiction and to determine the circumstances in which this extension of authority may be granted.

(d) The Board of Trustees of any constituent institution of The University of North Carolina, or the Board of Directors of the North Carolina Arboretum, having established a campus law enforcement agency pursuant to subsection (a) of this section, may enter into joint agreements with the governing board of any other constituent institution of The University of North Carolina to extend the law enforcement authority of its campus police officers into any or all of the other institution's jurisdiction and to determine the circumstances in which this extension of authority may be granted."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:26 p.m. on the 27th day of July, 2007.

Session Law 2007-286 **House Bill 1412**

AN ACT TO CLARIFY VETERANS PREFERENCE WITH STATE DEPARTMENTS, AGENCIES, AND INSTITUTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-15 reads as rewritten:

"§ **128-15. Employment preference for veterans and their spouses or surviving spouses.**

(a) It shall be the policy of the State of North Carolina that, in appreciation for their service to this State and this country during a period of war, and in recognition of the time and advantage lost toward the pursuit of a civilian career, veterans shall be granted preference in employment with every State department, agency, and institution.

(b) As used in this section:

(1) "A period of war" includes World War I (April 16, 1917, through November 11, 1918), World War II (December 7, 1941, through December 31, 1946), the Korean Conflict (June 27, 1950, through January 31, 1955), the period of time between January 31, 1955, and the end of the hostilities in Vietnam (May 7, 1975), or any other campaign, expedition, or engagement for which a campaign badge or medal is authorized by the United States Department of Defense.

(2) "Veteran" means a person who served in the Armed Forces of the United States on active duty, for reasons other than training, and has been discharged under other than dishonorable conditions.

(3) "Eligible veteran" means:

a. A veteran who served during a period of war; or

b. The spouse of a disabled veteran; or

c. The surviving spouse or dependent of a veteran who dies on active duty during a period of war either directly or indirectly as the result of such service; or

d. A veteran who suffered a disabling injury for service-related reasons during peacetime; or

e. The spouse of a veteran described in subdivision d. of this subsection; or

f. The surviving spouse or dependent of a person who served in the Armed Forces of the United States on active duty, for reasons other than training, who dies for service-related reasons during peacetime.

(c) Hereafter, in all evaluations of applicants for positions with this State or any of its departments, institutions or agencies, a preference shall be awarded to all eligible veterans who are citizens of the State and who served the State or the United States honorably in either the army, navy, marine corps, nurses' corps, air corps, air force, coast guard, or any of the armed services during a period of war. This preference applies to initial employment with the State and extends to other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers.

(d) The provisions of this section shall be subject to the provisions of Article 1 of Chapter 165 of the General Statutes, and Parts 13 and 19 of Article 9 of Chapter 143B of the General Statutes."

SECTION 2. G.S. 126-82 reads as rewritten:

"§ **126-82. State Personnel Commission to provide for preference.**

(a) The State Personnel Commission shall provide that in evaluating the qualifications of an eligible veteran against the minimum requirements for obtaining a position, credit shall be given for all military service training or schooling and experience that bears a reasonable and functional relationship to the knowledge, skills, and abilities required for the position. This preference applies to initial employment with the State and extends to other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers.

(b) The State Personnel Commission shall provide that if an eligible veteran has met the minimum requirements for the position, after receiving experience credit under subsection (a) of this section, he shall receive experience credit as determined by the Commission for additional related and unrelated military service. This preference applies to initial employment with the State and extends to other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers.

(c) The State Personnel Commission may provide that in reduction in force situations where seniority or years of service is one of the considerations for retention, an eligible veteran shall be accorded credit for military service.

(d) Any eligible veteran who has reason to believe that he or she did not receive a veteran's preference in accordance with the provisions of this Article or rules adopted under it may appeal directly to the State Personnel Commission.

(e) The willful failure of any employee subject to the provisions of Article 8 of this Chapter to comply with the provisions of this Article or rules adopted under it constitutes personal misconduct in accordance with the provisions and promulgated rules of this Chapter, including those for suspension, demotion, or dismissal."

SECTION 3. The State Personnel Commission and State agencies, departments, and institutions shall adopt rules to implement this act.

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:26 p.m. on the 27th day of July, 2007.

Session Law 2007-287 **House Bill 1413**

AN ACT PROVIDING FOR THE DESIGNATED APPOINTMENT OF A VETERAN OF THE ARMED FORCES TO THE STATE PERSONNEL COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-2(b)(3) reads as rewritten:

"(3) Two State employees subject to the State Personnel Act serving in nonexempt positions, appointed by the ~~Governor.~~ Governor, including one of whom is a veteran of the armed forces appointed upon the nomination of the Veterans' Affairs Commission. One employee shall serve in a State government position having supervisory duties, and one employee shall serve in a nonsupervisory position. Neither employee may be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina. The initial members appointed under this subdivision shall serve terms expiring June 30, 2001; the terms of subsequent appointees shall be six years."

SECTION 2. This act is effective when it becomes law and applies upon the next vacancy arising under G.S. 126-2(b)(3) on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:28 p.m. on the 27th day of July, 2007.

Session Law 2007-288 **Senate Bill 527**

AN ACT TO REQUIRE BUSINESSES THAT SELL PRODUCTS OR SERVICES TO CONSUMERS PURSUANT TO CONTRACTS THAT AUTOMATICALLY RENEW UNLESS THE CONSUMERS CANCEL THE CONTRACTS TO DISCLOSE THE RENEWAL CLAUSES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

"**§ 75-41. Contracts with automatic renewal clauses.**

(a) Any person, firm, or corporation engaged in commerce that sells, leases, or offers to sell or lease, any products or services to a consumer pursuant to a contract, where the contract automatically renews unless the consumer cancels the contract, shall disclose the automatic renewal clause clearly and conspicuously in the contract or contract offer.

(b) Any person, firm, or corporation engaged in commerce that sells, leases, or offers to sell or lease, any products or services to a consumer pursuant to a contract, where the contract automatically renews unless the consumer cancels the contract, shall

disclose clearly and conspicuously how to cancel the contract in the initial contract, contract offer, or with delivery of products or services.

(c) A person, firm, or corporation that fails to comply with the requirements of this section is in violation of this section unless the person, firm, or corporation demonstrates that all of the following are its routine business practice:

(1) It has established and implemented written procedures to comply with this section and enforces compliance with the procedures.

(2) Any failure to comply with this section is the result of error.

(3) Where an error has caused the failure to comply with this section, it provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the renewal until the date of the termination of the contract, or the date of the subsequent notice of renewal, whichever occurs first.

(d) This section does not apply to banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed under the laws of any state of the United States, or any subsidiary or affiliate thereof.

(e) A violation of this section renders the automatic renewal clause void and unenforceable."

SECTION 2. This act becomes effective October 1, 2007, and applies to contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:30 p.m. on the 27th day of July, 2007.

Session Law 2007-289 **House Bill 1330**

AN ACT TO PROVIDE AN EXEMPTION FROM THE REQUIREMENT THAT A BACKSEAT PASSENGER WEAR A SEAT BELT WHILE BEING TRANSPORTED BY A LAW ENFORCEMENT OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-135.2A(c) reads as rewritten:

"(c) This section shall not apply to any of the following:

(1) A driver or occupant of a noncommercial motor vehicle with a medical or physical condition that prevents appropriate restraint by a safety belt or with a professionally certified mental phobia against the wearing of vehicle ~~restraints;~~restraints.

(2) A motor vehicle operated by a rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier and a motor vehicle operated by a newspaper delivery person while actually engaged in delivery of newspapers along the person's specified ~~route;~~route.

(3) A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle if the speed of the vehicle between stops does not exceed 20 miles per ~~hour;~~hour.

(4) Any vehicle registered and licensed as a property-carrying vehicle in accordance with G.S. 20-88, while being used for agricultural purposes in intrastate ~~commerce;~~commerce.

(5) A motor vehicle not required to be equipped with seat safety belts under federal ~~law; or~~law.

(6) Any occupant of a motor home, as defined in G.S. 20-4.01(27)d2, other than the driver and front seat passengers.

(7) Any occupant, while in the custody of a law enforcement officer, being transported in the backseat of a law enforcement vehicle."

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

In the General Assembly read three times and ratified this the 16th day of July, 2007.

Became law upon approval of the Governor at 2:31 p.m. on the 27th day of July, 2007.

Session Law 2007-290 **House Bill 1321**

AN ACT TO PROVIDE A WEIGHT AND SIZE EXCEPTION TO STATE AND LOCAL FIREFIGHTING AGENCIES TRANSPORTING OVERWEIGHT AND OVERSIZED VEHICLES BEING USED TO COMBAT FOREST FIRES, WILDFIRES, AND OTHER EMERGENCIES OR DISASTERS, TO AUTHORIZE THE ISSUANCE OF AN ANNUAL OR SINGLE TRIP PERMIT FOR OVERSIZE AND OVERWEIGHT COMMERCIAL VEHICLES USED IN EMERGENCY RESPONSE, AND TO AUTHORIZE THE ISSUANCE OF A SINGLE TRIP PERMIT FOR OVERSIZE OR OVERWEIGHT VEHICLES OR VEHICLE COMBINATIONS RESPONDING TO AN EMERGENCY EVENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

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

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

(1) The vehicle weight does not exceed the manufacturer's GVWR or 90,000 pounds gross weight, whichever is less.

(2) The tri-axle grouping weight does not exceed 50,000 pounds, tandem axle weight does not exceed 42,000 pounds, and the single axle weight does not exceed 22,000 pounds.

(3) A vehicle/vehicle combination does not exceed 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

(b) Marking, Lighting, and Bridge Requirements. – Vehicle/vehicle combinations subject to an exemption or permit under this section shall not be exempt from the requirement of a yellow banner on the front and rear measuring a total length of seven feet by 18 inches bearing the legend "Oversize Load" in 10 inch black letters 1.5 inches wide, and red flags measuring 18 inches square to be displayed on all sides at the widest point of load. In addition, when operating between sunset and sunrise, flashing amber lights shall be displayed on each side of the load at the widest point. Vehicle/vehicle combinations subject to an exemption or permit under this section shall not exceed posted bridge limits without prior approval from the Department of Transportation.

(c) Definition of 'Response'. – A response lasts from the time an overweight or oversize vehicle is requested until the vehicle is returned to its base location and restored to a state of readiness for another response.

(d) Discretionary Annual or Single Trip Permit for Emergency Response by a Commercial Vehicle. – The Department of Transportation may, in its discretion, issue an annual or single trip special use permit waiving the weight and size restrictions of this Chapter and implementing rules for a commercial overweight or oversize vehicle actively engaged in a response to a fire or a request for assistance from a person authorized to direct emergency operations. The Department of Transportation may condition the permit with safety measures that do not unreasonably delay a response. The Department of Transportation may issue the single trip special use permit upon verbal communication, provided the requestor submits appropriate documentation and fees on the next business day.

(e) No Liability for Issuance of Permit Under This Section. – The action of issuing a permit by the Department of Transportation under this section is a governmental function and does not subject the Department of Transportation to liability for injury to a person or damage to property as a result of the activity."

SECTION 2. G.S. 20-119 reads as rewritten:

"§ **20-119. Special permits for vehicles of excessive size or weight; fees.**

(a) The Department of Transportation may, in its discretion, upon application, for good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size or weight exceeding a maximum specified in this Article upon any highway under the jurisdiction and for the maintenance of which the body granting the permit is responsible. However, the Department is not authorized to issue any permit to operate or move over the State highways twin trailers, commonly referred to as double bottom trailers. Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer. The authorities in any incorporated city or town may grant permits in writing and for good cause shown, authorizing the applicant to move a vehicle over the streets of such city or town, the size or weight exceeding the maximum expressed in this Article. The Department of Transportation shall issue rules to implement this section.

(a1) Where permitted by the posted road and bridge limits, the Department may issue a single trip permit for a vehicle or vehicle combination responding to an emergency event that could result in severe damage, injury, or loss of life or property resulting from any natural or man-made emergency as determined by either the Secretary of Crime Control and Public Safety or the Secretary of Transportation or their

designees. A permit issued under this subsection may allow for travel from a specific origin to destination and return 24 hours a day, seven days a week, including holidays. Permits issued under this subsection shall include a requirement for banners, flags, and other safety devices, as determined by the Department, and a requirement for a law enforcement escort or a vehicle being operated by a certified escort vehicle operator if traveling between sunset and sunrise. To obtain authorization to travel during restricted times, application shall be made with any required documentation to the proper officials as designated by the Department. If an emergency permit is issued under this subsection, the requestor shall contact the Department of Transportation's central permit office on the next business day to complete any further documentation and pay the applicable fees.

(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of twelve dollars ($12.00) for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars ($3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

Commodity:	Annual Fee:
Annual Permit to Move House Trailers	$200.00
Annual Permit to Move Other Commodities	$100.00

In addition to the fees set out in this subsection, applications for permits that require an engineering study for pavement or structures or other special conditions or considerations shall be accompanied by a nonrefundable application fee of one hundred dollars ($100.00).

This subsection does not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions, or municipalities if the vehicle is registered in the name of the agency.

(b1) Neither the Department nor the Board may require review or renewal of annual permits, with or without fee, more than once per calendar year.

(c) Nothing in this section shall require the Department of Transportation to issue any permit for any load.

(d) For each violation of any of the terms or conditions of a special permit issued or where a permit is required but not obtained under this section the Department of Crime Control and Public Safety may assess a civil penalty for each violation against the registered owner of the vehicle as follows:

(1) A fine of five hundred dollars ($500.00) for any of the following: operating without the issuance of a permit, moving a load off the route specified in the permit, falsifying information to obtain a permit, failing to comply with dimension restrictions of a permit, or failing to comply with the number of properly certified escort vehicles required.

(2) A fine of two hundred fifty dollars ($250.00) for moving loads beyond the distance allowances of an annual permit covering the movement of

house trailers from the retailer's premises or for operating in violation of time of travel restrictions.

(3) A fine of one hundred dollars ($100.00) for any other violation of the permit conditions or requirements imposed by applicable regulations.

The Department of Transportation may refuse to issue additional permits or suspend existing permits if there are repeated violations of subdivision (1) or (2) of this subsection. In addition to the penalties provided by this subsection, a civil penalty in accordance with G.S. 20-118(e)(1) and (3) may be assessed if a vehicle is operating without the issuance of a required permit, operating off permitted route of travel, operating without the proper number of certified escorts as determined by the actual loaded weight of the vehicle combination, fails to comply with travel restrictions of the permit, or operating with improper license. Fees assessed for permit violations under this subsection shall not exceed a maximum of twenty-five thousand dollars ($25,000).

(e) It is the intent of the General Assembly that the permit fees provided in G.S. 20-119 shall be adjusted periodically to assure that the revenue generated by the fees is equal to the cost to the Department of administering the Oversize/Overweight Permit Unit Program within the Division of Highways. At least every two years, the Department shall review and compare the revenue generated by the permit fees and the cost of administering the program, and shall report to the Joint Legislative Transportation Oversight Committee created in G.S.120-70.50 its recommendations for adjustments to the permit fees to bring the revenues and the costs into alignment.

(f) The Department of Transportation shall issue rules to establish an escort driver training and certification program for escort vehicles accompanying oversize/overweight loads. Any driver operating a vehicle escorting an oversize/overweight load shall meet any training requirements and obtain certification under the rules issued pursuant to this subsection. These rules may provide for reciprocity with other states having similar escort certification programs. Certification credentials for the driver of an escort vehicle shall be carried in the vehicle and be readily available for inspection by law enforcement personnel. The escort and training certification requirements of this subsection shall not apply to the transportation of agricultural machinery until October 1, 2004. The Department of Transportation shall develop and implement an in-house training program for agricultural machinery escorts by September 1, 2004.

(g) The Department of Transportation shall issue annual overwidth permits for vehicles carrying agricultural equipment or machinery from the dealer to the farm or from the farm to the dealer that do not exceed 14 feet in width. These permits shall be valid for unlimited movement without escorts on all State highways where the overwidth vehicles do not exceed posted bridge and load limits.

(h) No law enforcement officer shall issue a citation to a person for a violation of this section if the officer is able to determine by electronic means that the person has a permit valid at the time of the violation but does not have the permit in his or her possession. Any person issued a citation pursuant to this section who does not have the permit in his or her possession at the time of the issuance of the citation shall not be responsible for a violation, and the Department of Crime Control and Public Safety may not impose any fines under this section if the person submits evidence to the Department of the existence of a permit valid at the time of the violation within 30 days of the date of the violation."

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

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Became law upon approval of the Governor at 2:34 p.m. on the 27th day of July, 2007.

Session Law 2007-291 **House Bill 135**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE DEALER PLATES WITH A SYMBOL NOTING THAT THE HOLDER IS A MANUFACTURER, TO EXEMPT MANUFACTURERS FROM THE RESTRICTIONS ON THE NUMBER OF DEALER PLATES THAT MAY BE ISSUED TO THEM, AND TO CLARIFY THAT THE DIVISION MAY ISSUE A DEALER PLATE IN A SUITABLY REDUCED SIZE FOR MOTORCYCLE DEALERS AND MANUFACTURERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79 reads as rewritten:

"§ **20-79. Dealer license plates.**

(a) How to Get a Dealer Plate. – The Division may issue a person ~~A dealer~~ licensed under Article 12 of this Chapter the appropriate classification of dealer license plate. A person eligible for a dealer license plate may obtain ~~a dealer license plate~~ one by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division. The required fee is the amount set by G.S. 20-87(7).

(b) Number of Plates. – A dealer who was licensed under Article 12 of this Chapter for the previous 12-month period ending December 31 may obtain the number of dealer license plates allowed by the following table; the number allowed is based on the number of motor vehicles the dealer sold during the relevant 12-month period and the average number of qualifying sales representatives the dealer employed during that same 12-month period:

Vehicles Sold In Relevant 12-Month Period	Maximum Number of Plates
Fewer than 12	1
At least 12 but less than 25	4
At least 25 but less than 37	5
At least 37 but less than 49	6
49 or more	At least 6, but no more than 4 times the average number of qualifying sales representatives employed by the dealer during the relevant 12-month period.

A dealer who was not licensed under Article 12 of this Chapter for part or all of the previous 12-month period ending December 31 may obtain the number of dealer license plates that equals four times the number of qualifying sales representatives employed by the dealer on the date the dealer files the application. A "qualifying sales representative" is a sales representative who works for the dealer at least 25 hours a week on a regular basis and is compensated by the dealer for this work.

A dealer who sold fewer than 49 motor vehicles the previous 12-month period ending December 31 but has sold at least that number since January 1 may apply for additional dealer license plates at any time. The maximum number of dealer license

plates the dealer may obtain is the number the dealer could have obtained if the dealer had sold at least 49 motor vehicles in the previous 12-month period ending December 31.

A dealer who applies for a dealer license plate must certify to the Division the number of motor vehicles the dealer sold in the relevant period. Making a material misstatement in an application for a dealer license plate is grounds for the denial, suspension, or revocation of a dealer's license under G.S. 20-294.

A dealer engaged in the alteration and sale of specialty vehicles may apply for up to two dealer plates in addition to the number of dealer plates that the dealer would otherwise be entitled to under this section.

This subsection does not apply to manufacturers licensed under Article 12 of this Chapter.

(c) Form and Duration. – A dealer license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" plate. ~~In addition, a~~ A dealer license plate must have a distinguishing symbol identifying the plate as a dealer license plate. The symbol may vary depending upon the classification of dealer license plate issued. The Division must provide suitably reduced sized license plates for motorcycle dealers and manufacturers.

A dealer license plate is issued for a period of one year. The Division shall vary the expiration dates of dealer registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. A ~~dealer may transfer a~~ dealer license plate may be transferred from one vehicle to another. When the Division issues a dealer plate, it may issue a registration that expires at the end of any monthly interval. When one of the following occurs, a dealer must surrender to the Division all dealer license plates issued to the dealer:

(1) The dealer surrenders the license issued to the dealer under Article 12 of this Chapter.
(2) The Division suspends or revokes the license issued to the dealer under Article 12 of this Chapter.
(3) The Division rescinds the dealer license plates because of a violation of the restrictions on the use of a dealer license plate.

To obtain a dealer license plate after it has been surrendered, the dealer must file a new application for a dealer license plate and pay the required fee for the plate.

(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

(1) Is part of the inventory of the dealer.
(2) Is not consigned to the dealer.
(3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
(4) Is not used by the dealer in another business in which the dealer is engaged.
(5) Is driven on a highway by a person who carries a copy of the registration card for the dealer plates issued to the dealer while driving the motor vehicle and who meets one of the following descriptions:
    a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.

b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.

c. Is an employee of the dealer and is driving the vehicle in the course of employment.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection.

(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a dealer license plate is driven in violation of the restrictions on the use of the plate:

(1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of fifty dollars ($50.00).

(2) The dealer to whom the plate is issued is subject to a civil penalty imposed by the Division of two hundred dollars ($200.00).

(3) The Division may rescind all dealer license plates issued to the dealer whose plate was displayed on the motor vehicle.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue.

(f) Transfer of Dealer Registration. – No change in the name of a firm, partnership or corporation, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered a new business; but if any one or more of the partners remain in the firm, or if there is change in ownership of less than a majority of the stock, if a corporation, the business shall be regarded as continuing and the dealers' plates originally issued may continue to be used.

(g) Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(h) Definition. – For purposes of this section, the term 'dealer' means a person who is licensed under Article 12 of this Chapter."

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

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 11:31 a.m. on the 28th day of July, 2007.

Session Law 2007-292 **House Bill 18**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON THE EDUCATION OF STUDENTS WITH DISABILITIES TO CLARIFY THE DEFINITION OF RESIDENCE FOR THE DELIVERY OF SPECIAL EDUCATION SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-106.3 is amended by adding the following new subdivision to read:

"(18a) 'Residence' or 'reside' means the place where a child with a disability is entitled to be enrolled in a North Carolina public school under G.S. 115C-366 except for the age requirements of that section. This definition shall not apply to children with disabilities who were (i) enrolled in a particular local school administrative unit on the last day of school for the 2006-2007 school year, or (ii) enrolled in and attending a school in a particular local school administrative unit on August 1, 2007, for the 2007-2008 school year for as long as they live within and are continuously enrolled in that local school administrative unit."

SECTION 2. G.S. 115C-106.2(a) reads as rewritten:

"(a) The purposes of this Article are to (i) ensure that all children with disabilities ages three through 21 who reside in this State have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepares them for further education, employment, and independent living; (ii) ensure that the rights of these children and their parents are protected; and (iii) enable the State Board of Education and local educational agencies to provide for the education of all children with disabilities."

SECTION 3. G.S. 115C-107.3(a) reads as rewritten:

"(a) The Board shall require an annual census of all children with ~~disabilities,~~ disabilities residing in the State, subdivided for "identified" and "suspected" children with disabilities, to be taken in each school year. Suspected children are those in the formal process of being evaluated or identified as children with disabilities. The census shall be conducted annually and shall be completed by October 15, submitted to the Governor and General Assembly and made available to the public by January 15 annually."

SECTION 4. G.S. 115C-107.6(b) reads as rewritten:

"(b) No child with disabilities shall be prevented from attending the public schools of the local educational agency in which the ~~child's parents or legal guardian~~ child resides or from which the child receives services or from attending any other public program of free appropriate public education based solely on the fact that the child has a disability. If it appears the child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Health and Human Services or the Department of Juvenile Justice and Delinquency Prevention, the local school administrative unit shall confer with the appropriate Department of Health and Human Services or Department of Juvenile Justice and Delinquency Prevention staff for their participation and determination of the appropriateness of placement in that program and development of the child's individualized education program."

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:33 a.m. on the 28th day of July, 2007.

Session Law 2007-293 **Senate Bill 758**

AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ **20-20.1. Limited driving privilege for certain revocations.**

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

(1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under specified terms and conditions.

(2) Nonstandard working hours. – Anytime other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(3) Standard working hours. – Anytime from 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(4) Underlying offense. – The offense for which a person's drivers license was revoked when the person was charged under G.S. 20-28(a), driving with a revoked license, or under G.S. 20-28.1, committing a motor vehicle moving offense while driving with a revoked license.

(b) Eligibility. – A person is eligible to apply for a limited driving privilege under this section if all of the following conditions apply:

(1) The person's license is currently revoked under G.S. 20-28(a) or G.S. 20-28.1.

(2) The person has complied with the revocation for the period required in subsection (c) of this section immediately preceding the date the person files a petition for a limited driving privilege under this section.

(3) The person's underlying offense is not an offense involving impaired driving and, if the person's license is revoked under G.S. 20-28.1 for committing a motor vehicle moving offense while driving with a revoked license, the moving offense is not an offense involving impaired driving.

(4) The revocation period for the underlying offense has expired.

(5) The revocation under G.S. 20-28(a) or G.S. 20-28.1 is the only revocation in effect.

(6) The person is not eligible to receive a limited driving privilege under any other law.

(7) The person has not held a limited driving privilege issued under this section at anytime during the three years prior to the date the person files the current petition.

(8) The person has no pending charges for any motor vehicle offense in this or in any other state and has no unpaid motor vehicle fines or penalties in this or in any other state.

(9) The person's drivers license issued by another state has not been revoked by that state.

(10) G.S. 20-9(e) or G.S. 20-9(f) does not prohibit the Division from issuing the person a license.

(c) Compliance Period. – The following table sets out the period during which a person must comply with a revocation under G.S. 20-28(a) or G.S. 20-28.1 to be eligible for a limited driving privilege under this section:

Revocation Period	Compliance Period
1 Year	90 Days
2 Years	1 Year
Permanent	2 Years

(d) Petition. – A person may apply for a limited driving privilege under this section by filing a petition. A petition filed under this section is separate from the action that resulted in the initial revocation and is a civil action. A petition must be filed in district court in the county of the person's residence as reflected by the Division's records or, if the Division's records are inaccurate, in the county of the person's actual residence. A person must attach to a petition a copy of the person's motor vehicle record. A petition must include a sworn statement that the person filing the petition is eligible for a limited driving privilege under this section.

A court, for good cause shown, may issue a limited driving privilege to an eligible person in accordance with this section. The costs required under G.S. 7A-305(a) and (a3) apply to a petition filed under this section. The clerk of court for the court that issues a limited driving privilege under this section must send a copy of the limited driving privilege to the Division.

(e) Scope of Privilege. – A limited driving privilege restricts the person to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as otherwise provided, all driving must be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are:

(1) Travel to and from the person's place of employment and in the course of employment.

(2) Travel necessary for maintenance of the person's household.

(3) Travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at anytime and without restriction as to routes.

(f) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying times and routes for the driving. If the person is required to drive for essential employment-related purposes only during standard working hours, the limited driving privilege must prohibit driving during nonstandard working hours unless the driving is for emergency medical care or for authorized household maintenance. The limited driving privilege must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving.

(g) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation must be attached to or made a part of the limited driving privilege. If the person is employed by another, the limited driving privilege

must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving. If the court determines that it is necessary for the person to drive during nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

(1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege must specify the general times and routes by which the person may drive to and from work and must restrict driving to those times and routes.

(2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege must specify the general routes by which the person may drive to and from work and must restrict driving to those general routes.

(3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege must specify the general times and geographic boundaries within which the person may drive and must restrict driving to those times and boundaries.

(4) If the person can specify neither the times nor places in which the person will be driving to and from work, the limited driving privilege must specify the geographic boundaries within which the person may drive and must restrict driving to those boundaries.

(h) Household Maintenance. – A limited driving privilege may allow driving for maintenance of the household only during standard working hours. The court, at its discretion, may impose additional restrictions on driving for the maintenance of the household.

(i) Restrictions. – A limited driving privilege that is not authorized by this section or that does not contain the restrictions required by law is invalid. A limited driving privilege issued under this section is subject to the following conditions:

(1) Financial responsibility. – A person applying for a limited driving privilege under this section must provide the court proof of financial responsibility acceptable under G.S. 20-16.1(g) and must maintain the financial responsibility during the period of the limited driving privilege.

(2) Alcohol restrictions. – A person who received a limited driving privilege under this section may not consume alcohol while driving or drive at anytime while the person has remaining in the person's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts.

(3) Others. – The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(j) Term and Reinstatement. – The term of a limited driving privilege issued under this section is the shorter of one year or the length of time remaining in the revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. When the term of the limited driving privilege expires, the Division must reinstate the person's license if the person meets all of the conditions listed in this subsection. The Division may impose

restrictions or conditions on the new license in accordance with G.S. 20-7(e). The conditions are:

(1) Payment of the restoration fee as required under G.S. 20-7(i1).

(2) Providing proof of financial responsibility as required under G.S. 20-7(c1).

(3) Providing the proof required for reinstatement of a license under G.S. 20-28(c1).

(k) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge must indicate in the order of modification or revocation the reasons for the order or make specific findings indicating the reason for the order and enter those findings in the record of the case. When a court issues an order of modification or revocation, the clerk of court must send a copy of the order to the Division.

(l) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. When a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege is suspended pending the final disposition of the charge."

SECTION 2. G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) A petition for a limited driving privilege under G.S. 20-20.1 is subject to the court costs assessed under subsection (a) of this section plus an additional filing fee of one hundred dollars ($100.00). The additional filing fee must be remitted to the State Treasurer and used for support of the General Court of Justice."

SECTION 3. This act becomes effective December 1, 2007, and applies to revocations that occur before, on, or after that date.

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:40 a.m. on the 28th day of July, 2007.

Session Law 2007-294 **House Bill 1810**

AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH THE FEDERAL VIOLENCE AGAINST WOMEN ACT OF 2005.

The General Assembly of North Carolina enacts:

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

"**§ 15A-831.1. Polygraph examinations of victims of sexual assaults.**

(a) A criminal or juvenile justice agency shall not require a person claiming to be a victim of sexual assault or claiming to be a witness regarding the sexual assault of another person to submit to a polygraph or similar examination as a precondition to the agency conducting an investigation into the matter.

(b) An agency wishing to perform a polygraph examination of a person claiming to be a victim or witness of sexual assault shall inform the person of the following:

(1) That taking the polygraph examination is voluntary.

(2) That the results of the examination are not admissible in court.

(3) That the person's decision to submit to or refuse a polygraph examination will not be the sole basis for a decision by the agency not to investigate the matter.

(c) An agency which declines to investigate an alleged case of sexual assault following a decision by a person claiming to be a victim not to submit to a polygraph examination shall provide to that person, in writing, the reasons why the agency did not pursue the investigation at the request of the person."

SECTION 2. The Administrative Office of the Courts, in cooperation with the North Carolina Coalition Against Domestic Violence and the North Carolina Governor's Crime Commission, shall develop a form to comply with the criminal case firearm notification requirements of the Violence Against Women Act of 2005. The form shall be available for use by the courts no later than December 31, 2007. Effective January 1, 2008, all defendants convicted of crimes subject to the firearm notification requirements shall be provided a copy of the form by the court.

SECTION 3. Section 1 of this act becomes effective December 1, 2007, and applies to sexual assault offenses alleged to have been committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:40 a.m. on the 28th day of July, 2007.

Session Law 2007-295 **House Bill 17**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON THE EDUCATION OF STUDENTS WITH DISABILITIES TO REQUIRE THE DEPARTMENT OF PUBLIC INSTRUCTION TO STUDY THE DELIVERY OF EDUCATIONAL AND OTHER SERVICES TO STUDENTS WITH DISABILITIES AT THE HIGH SCHOOL LEVEL AND REPORT TO THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Public Instruction shall identify the various models being utilized to deliver educational and other services at the high school level to children with disabilities in North Carolina. As a part of its study, the Department shall consider the efficacy of the models currently being used in the State and review the research for best practice models that are being implemented in other states. The Department shall report its findings and any recommended legislation or policy changes by March 1, 2008, to the Joint Legislative Education Oversight Committee.

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:40 a.m. on the 28th day of July, 2007.

Session Law 2007-296 **House Bill 1646**

AN ACT TO INCREASE THE PENALTIES FOR VIOLATIONS OF LAWS TO PROTECT AIR QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.114A reads as rewritten:

"§ **143-215.114A. Enforcement procedures: civil penalties.**

(a) A civil penalty of not more than ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) may be assessed by the Secretary against any person who:

(1) Violates any classification, standard or limitation established pursuant to G.S. 143-215.107.

(2) Is required but fails to apply for or to secure a permit required by G.S. 143-215.108 or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.

(3) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.110.

(4) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Article or Parts 1 or 7 of Article 21 of this Chapter.

(5) Violates a rule of the Commission or a local governing body implementing this Article or Parts 1 or 7 of Article 21.

(6) Violates the offenses set out in G.S. 143-215.114B.

(7) Violates the emissions limitations set out in G.S. 143-215.107D.

(b) If any action or failure to act for which a penalty may be assessed under this section is continuous, the Secretary may assess a penalty not to exceed ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) per day for so long as the violation continues.

(b1) The Secretary may assess a civil penalty of not more than ~~ten~~ twenty-five thousand dollars ~~($10,000)~~($25,000) per day for a violation of the emissions limitations set out in G.S. 143-215.107D as provided in this subsection. If at the end of any calendar year, an investor-owned public utility has violated an emissions limitation set out in G.S. 143-215.107D, the violation shall be considered to be continuous from the day that the collective emissions first exceeded the emissions limitation set out in G.S. 143-215.107D through the end of the calendar year and the Secretary may assess a separate civil penalty for each day.

(c) In determining the amount of the penalty the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(d) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(e) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c)

and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(f) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subdivision (4) of this subsection, or requests remission of the assessment in whole or in part as provided in subdivision (5) of this subsection. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

(g) Repealed by Session Laws 1996, Second Extra Session c. 18, s. 27.34(f).

(h) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act becomes effective October 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:42 a.m. on the 28th day of July, 2007.

Session Law 2007-297 **House Bill 1400**

AN ACT TO PROHIBIT THE TAKING OR RECOVERY OF HUMAN TISSUE AT A FUNERAL ESTABLISHMENT BY ANY PERSON, WITH CERTAIN EXCEPTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.25 is amended by adding the following new subsection to read:

"(e1) The taking or recovery of human tissue at a funeral establishment by any person is prohibited. The prohibition does not apply to any of the following:

(1) A licensee under this Article that performs embalming or otherwise prepares a dead human body in the ordinary course of business.

(2) The Chief Medical Examiner or anyone acting under the Chief Medical Examiner's authority.

(3) An autopsy technician who takes or recovers tissue from a dead human body if all of the following apply:

a. The taking or recovery is the subject of an academic research program.

b. The academic research program has appropriate Institutional Review Board supervision.

c. The academic research program has obtained informed consent of the donor or the person legally authorized to provide consent.

No funeral establishment or person licensed under this Article shall permit the taking or recovery of human tissue from a dead human body in its custody or control for human transplantation purposes or for research purposes, except that a funeral establishment or person licensed under this Article may permit an autopsy technician to take or recover tissue at a funeral establishment pursuant to subdivision (3) of this subsection. No funeral establishment or any of its licensees, agents, or employees shall accept, solicit, or offer to accept any payment, gratuity, commission, or compensation of any kind for referring potential tissue donors to a tissue bank or tissue broker or to an eye bank or eye broker. For purposes of this subsection, the term "tissue" does not include an eye."

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:45 a.m. on the 28th day of July, 2007.

Session Law 2007-298 **House Bill 731**

AN ACT TO PROTECT CONSUMERS PURCHASING ANNUITY PRODUCTS; ADDRESS PORTABILITY IN ACCIDENT AND HEALTH AND LIFE INSURANCE; MAKE MINOR CHANGES IN THE LAWS ON MANAGED CARE EXTERNAL REVIEWS; CLARIFY DEFINITIONS IN LONG-TERM CARE INSURANCE; ADDRESS SMALL EMPLOYER CARRIER PLAN ELECTIONS; DEFINE "CRITICAL PERIOD CONVERSION RATIO" FOR CREDIT INSURANCE; MAKE MISCELLANEOUS AMENDMENTS TO OTHER PROVISIONS RELATED TO LIFE AND HEALTH INSURANCE; AND MAKE TECHNICAL CORRECTIONS IN INSURANCE CODE REFERENCES TO THE TEACHERS' AND STATE EMPLOYEES' MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

PART I. SUITABILITY IN ANNUITY TRANSACTIONS.

SECTION 1.1. Article 60 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 4. Suitability in Annuity Transactions.

"**§ 58-60-150. Title and reference.**

This Part may be cited as the "Suitability in Annuity Transactions Act".

"**§ 58-60-155. Purpose; scope.**

(a) The purpose of this Part is to set forth standards and procedures for recommendations to consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

(b) This Part shall apply to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.

"**§ 58-60-160. Exemptions.**

Unless otherwise specifically included, this Part does not apply to recommendations involving any of the following:

(1) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this Part.

(2) Contracts used to fund any of the following:

a. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA).

b. A plan described by section 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code if established or maintained by an employer.

c. A government or church plan defined in section 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under section 457 of the Internal Revenue Code.

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

f. Formal prepaid funeral contracts.

"**§ 58-60-165. Definitions.**

As used in this Part:

(1) "Annuity" means a fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

(2) "Insurance producer" has the same meaning as in G.S. 58-33-10(7).

(3) "Recommendation" means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice.

"**§ 58-60-170. Duties of insurers and insurance producers.**

(a) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments and other insurance products and as to the consumer's financial situation and needs.

(b) Before recommending the purchase or exchange of an annuity resulting from a recommendation, the insurance producer, or the insurer where no producer is involved, shall make reasonable efforts to obtain information about the particular consumer's circumstances, including, but not limited to, all of the following:

(1) The consumer's financial status.

(2) The consumer's tax status.

(3) The consumer's investment objectives.

(4) Any other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.

(c) Except as provided under subdivision (1) of this subsection, neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a consumer under subsection (a) of this section related to any recommendation if a consumer does any of the following:

(1) Refuses to provide relevant information requested by the insurer or insurance producer. An insurer or insurance producer's recommendation subject to this subdivision shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

(2) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer.

(3) Fails to provide complete or accurate information requested by the insurer or insurance producer.

(d) An insurer either shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this Part is established and maintained by complying with subsections (e), (f), and (g) of this section, or shall establish and maintain such a system, including:

(1) Maintaining written procedures.

(2) Conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this Part.

(e) A general agent and independent agency either shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this Part, or shall establish and maintain such a system, including:

(1) Maintaining written procedures.

(2) Conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this Part.

(f) An insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by subsection (d) of this section with respect to insurance producers under contract with, or employed by, the third party. An insurer shall make reasonable inquiry to assure that the third-party contracting under this subsection is performing the functions required under subsection (d) of this section and shall take any action that is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

(1) The insurer annually obtains a certification from a third-party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions. No person may provide a certification under this subdivision unless (i) the person is a senior manager with responsibility for the delegated functions; and (ii) the person has a reasonable basis for making the certification.

(2) The insurer, based on reasonable selection criteria, periodically selects third parties contracting under this subsection for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

An insurer that contracts with a third party, and that complies with the requirements to supervise the third party pursuant to this subsection, shall have fulfilled its responsibilities under subsection (d) of this section.

A general agent or independent agency contracting with an insurer shall promptly, when requested by the insurer pursuant to this subsection, give a certification as described in this subsection or give a clear statement that it is unable to meet the certification criteria.

(g) An insurer, general agent, or independent agency is not required by subsections (d) or (e) of this section to:

(1) Review, or provide for review of, all insurance producer solicited transactions; or

(2) Include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer, general agent, or independent agency.

(h) Compliance with the National Association of Securities Dealers Conduct Rules pertaining to suitability shall satisfy the requirements under this section for the recommendation of variable annuities. However, nothing in this subsection limits the Commissioner's ability to enforce the provisions of this Part.

"**§ 58-60-175. Mitigation of responsibility.**

(a) The Commissioner may order:

(1) An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of this Part.

(2) An insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this Part.

(3) A general agency or independent agency that employs or contracts with an insurance producer to sell, or solicit the sale, of annuities to consumers, to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this Part.

(b) Any applicable penalty under G.S. 58-2-70 for a violation of subsection (a) or (b) of G.S. 58-60-170 may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered.

(c) A violation of this Part is an unfair method of competition and unfair and deceptive act or practice in the business of insurance in violation of G.S. 58-63-10.

"**§ 58-60-180. Record keeping.**

(a) Insurers, general agents, independent agencies, and insurance producers shall maintain or be able to make available to the Commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for five years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

(b) Records required to be maintained by this Part may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document."

SECTION 1.2. Article 58 of Chapter 58 of the General Statutes is amended by adding two new sections to read:

"**§ 58-58-146. Application for annuities required.**

Each individual annuity contract shall be issued only upon application of the applicant. Any application or enrollment form is subject to G.S. 58-3-150, and if taken by an agent, shall include the certificate of the agent that the agent has truly and accurately recorded on the application or enrollment form the information provided by the applicant. Every annuity contract subject to this section shall contain as part of the contract the original or reproduction of the application required by this section.

"**§ 58-58-147. Surrender fees on death benefits.**

No authorized insurer shall deliver or issue for delivery in this State any deferred annuity contract that contains a provision that reduces the death benefit of the contract by a surrender fee when death occurs during the surrender period."

PART II. PORTABILITY IN ACCIDENT AND HEALTH AND LIFE INSURANCE.

SECTION 2.1. G.S. 58-51-15(a)(2)b. reads as rewritten:

"(2) A provision in the substance of the following language:

TIME LIMIT ON CERTAIN DEFENSES:

…

b. This policy contains a provision limiting coverage for preexisting conditions. Preexisting conditions are covered under this policy ____ (insert number of months or days, not to exceed one year) after the effective date of coverage. Preexisting conditions mean "those conditions for which medical advice, diagnosis, care, or treatment was received or recommended within the one-year period immediately preceding the effective date of the person's coverage." ~~Except for the excepted benefits described in G.S. 58-68-25(b), credit~~ Credit for having satisfied some or all of the preexisting condition waiting periods under previous health benefits coverage shall be given in accordance with ~~G.S. 58-68-30.~~ G.S. 58-51-17. The excepted benefits described in G.S. 58-68-25(b) are not subject to this requirement for giving credit."

SECTION 2.2. Article 51 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-51-17. Portability for accident and health insurance.**

(a) Rules Relating to Crediting Previous Coverage. –

(1) Creditable coverage defined. – For the purposes of this section, "creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

a. A self-funded employer group health plan under the Employee Retirement Income Security Act of 1974.

b. Group or individual health insurance coverage.

c. Part A or part B of title XVIII of the Social Security Act.

d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

e. Chapter 55 of title 10, United States Code.

f. A medical care program of the Indian Health Service or of a tribal organization.

g. A State health benefits risk pool.

h. A health plan offered under chapter 89 of title 5, United States Code.

i. A public health plan (as defined in federal regulations).

j. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. § 2504(e)).

k. Title XXI of the Social Security Act (State Children's Health Insurance Program).

"Creditable coverage" does not include coverage consisting solely of coverage of excepted benefits as described in G.S. 58-68-25(b). However, short-term limited-duration health insurance coverage shall be considered creditable coverage for purposes of this section.

(2) Not counting periods before significant breaks in coverage. –

a. In general. – A period of creditable coverage shall not be counted, with respect to enrollment of an individual under an individual health insurance plan, if, after the period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

b. Waiting period not treated as a break in coverage. – For the purposes of sub-subdivision a. of this subdivision and subdivision (b)(3) of this section, any period that an individual is in a waiting period, as defined in G.S. 58-68-30(b)(4)c., for any coverage under an individual health insurance plan shall not be taken into account in determining the continuous period under sub-subdivision a. of this subdivision.

c. For an individual who elects COBRA continuation coverage during the second election period provided under the Trade Act of 2002, the days between the date the individual lost group health plan coverage and the first day of the second COBRA election period shall not be considered when determining whether a significant break in coverage has occurred.

(3) Method of crediting coverage. – An individual health insurer shall count a period of creditable coverage without regard to the specific benefits covered during the period.

(4) Establishment of period. – Periods of creditable coverage for an individual shall be established through presentation of certifications described in subsection (c) of this section or in another manner that is specified in regulations.

(5) Determination of creditable coverage. –

a. Determination within reasonable time. – If an individual health insurer receives creditable coverage information under subsection (c) of this section, the insurer shall, within a reasonable time following receipt of the information, make a determination regarding the amount of the individual's creditable coverage and the length of any exclusion that remains. Whether this determination is made within a reasonable time depends on the relevant facts and circumstances. Relevant facts and circumstances include whether a plan's application of a preexisting condition exclusion

would prevent an individual from having access to urgent medical care.

b. No time limit on presenting evidence of creditable coverage. – An individual health insurer shall not impose any limit on the amount of time that an individual has to present a certificate or other evidence of creditable coverage.

(b) Exceptions. –

(1) Exclusion not applicable to certain newborns. – Subject to subdivision (3) of this subsection, an individual health insurer shall not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the individual's date of birth, is covered under creditable coverage.

(2) Exclusion not applicable to certain adopted children. – Subject to subdivision (3) of this subsection, a group health insurer shall not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence does not apply to coverage before the date of the adoption or placement for adoption.

(3) Loss if break in coverage. – Subdivisions (1) and (2) of this subsection shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

(c) Certifications and Disclosure of Coverage. –

(1) In general. – An individual health insurer shall provide the certification described in this subdivision (i) at the time an individual ceases to be covered under the plan, and (ii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) of this subdivision, whichever is later.

(2) Certification. – The certification described in this subdivision is a written certification of (i) the period of creditable coverage of the individual under the plan and (ii) any waiting period and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan."

SECTION 2.3. G.S. 58-68-30(c) reads as rewritten:

"(c) Rules Relating to Crediting Previous Coverage. –

(1) Creditable coverage defined. – For the purposes of this Article, "creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

a. A self-funded employer group health plan under the Employee Retirement Income Security Act of 1974.

b. Group or individual health insurance coverage.

c. Part A or part B of title XVIII of the Social Security Act.

d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

e. Chapter 55 of title 10, United States Code.

f. A medical care program of the Indian Health Service or of a tribal organization.
g. A State health benefits risk pool.
h. A health plan offered under chapter 89 of title 5, United States Code.
i. A public health plan (as defined in federal regulations).
j. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. § 2504(e)).
k. Title XXI of the Social Security Act (State Children's Health Insurance Program).

"Creditable coverage" does not include coverage consisting solely of coverage of excepted benefits. However, short-term limited-duration health insurance coverage shall be considered creditable coverage for purposes of this section and G.S. 58-51-15(a)(2)b.

(2) Not counting periods before significant breaks in coverage. –

a. In general. – A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health insurance plan, if, after the period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.
b. Waiting period not treated as a break in coverage. – For the purposes of sub-subdivision a. of this subdivision and subdivision (d)(4) of this subsection, any period that an individual is in a waiting period for any coverage under a group health insurance plan or is in an affiliation period shall not be taken into account in determining the continuous period under sub-subdivision a. of this subdivision.
c. Time spent on short term limited duration health insurance not treated as a break in coverage. – For the purposes of sub-subdivision a. of this subdivision, any period that an individual is enrolled on a short term limited duration health insurance policy shall not be taken into account in determining the continuous period under sub-subdivision. a. of this subdivision so long as the period of time spent on the short term limited duration health insurance policy or policies does not exceed 12 months.
d. For an individual who elects COBRA continuation coverage during the second election period provided under the Trade Act of 2002, the days between the date the individual lost group health plan coverage and the first day of the second COBRA election period shall not be considered when determining whether a significant break in coverage has occurred.

(3) Method of crediting coverage. –

a. Standard method. – Except as otherwise provided under sub-subdivision b. of this subdivision for the purposes of applying subdivision (a)(3) of this subsection, a group health insurer shall count a period of creditable coverage without regard to the specific benefits covered during the period.

b. Election of alternative method. – A group health insurer may elect to apply subdivision (a)(3) of this subsection based on coverage of benefits within each of several classes or categories of benefits specified in federal regulations rather than as provided under sub-subdivision a. of this subdivision. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election a group health insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within the class or category.

c. Health insurer notice. – In the case of an election under sub-subdivision b. of this subdivision with respect to health insurance coverage in the small or large group market, the health insurer: (i) shall prominently state in any disclosure statements concerning the coverage, and to each employer at the time of the offer or sale of the coverage, that the health insurer has made the election, and (ii) shall include in the statements a description of the effect of the election.

(4) Establishment of period. – Periods of creditable coverage for an individual shall be established through presentation of certifications described in subsection (e) of this section or in another manner that is specified in federal regulations.

(5) Determination of creditable coverage. –

a. Determination within reasonable time. – If a group health insurer receives creditable coverage information under subsection (e) of this section, the group health insurer shall, within a reasonable time following receipt of the information, make a determination regarding the amount of the individual's creditable coverage and the length of any exclusion that remains. Whether this determination is made within a reasonable time depends on the relevant facts and circumstances. Relevant facts and circumstances include whether a plan's application of a preexisting condition exclusion would prevent an individual from having access to urgent medical care.

b. No time limit on presenting evidence of creditable coverage. – A group health insurer shall not impose any limit on the amount of time that an individual has to present a certificate or other evidence of creditable coverage."

SECTION 2.4. G.S. 58-68-30(f) reads as rewritten:

"(f) Special Enrollment Periods. –

(1) Individuals losing other coverage. – A group health insurer shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of the employee if the dependent is eligible, but not enrolled, for coverage under the terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

a. The employee or dependent was covered under an ERISA group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent.

b. The employee stated in writing at the time that coverage under the group health plan or health insurance coverage was the reason for declining enrollment, but only if the health insurer required the statement at the time and provided the employee with notice of the requirement and the consequences of the requirement at the time.

c. With respect to the employee's or dependent's coverage described in sub-subdivision a. of this subsection: (i) the coverage was under a COBRA continuation provision and the coverage under the provision was exhausted; (ii) the coverage was not under that provision and either the coverage was terminated because of loss of eligibility for the coverage, including legal separation, divorce, cessation of dependent status (such as attaining the maximum age to be eligible as a dependent child under the plan), death of an employee, termination of employment, reduction in the number of hours of employment, and any loss of eligibility for coverage after a period that is measured by reference to any of the foregoing; (iii) employer contributions toward the coverage were terminated; (iv) in the case of coverage offered through an arrangement that does not provide benefits to individuals who no longer reside, live, or work in a service area, there has been loss of coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and no other benefit package is available to the individual; (v) an individual incurs a claim that would meet or exceed a lifetime limit on all benefits; or (vi) a plan no longer offers any benefits to the class of similarly situated individuals that includes the individual; or (vii) the health insurer terminated coverage under G.S. 58-68-45(c)(2).

d. Under the terms of the plan, the employee requests the enrollment not later than 30 days after the date of the applicable event described in sub-subdivision c. of this subdivision.

(2) For dependent beneficiaries. –

a. In general. – If: (i) a group health insurance plan makes coverage available with respect to a dependent of an individual, (ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period), and (iii) a person becomes the dependent of the individual through marriage, birth, or adoption or placement for adoption.

The plan shall provide for a dependent special enrollment period described in sub-subdivision b. of this subdivision during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the

birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.

b. Dependent special enrollment period. – A dependent special enrollment period under this sub-subdivision shall be a period of not less than 30 days and shall begin on the later of: (i) the date dependent coverage is made available, or (ii) the date of the marriage, birth, or adoption or placement for adoption described in sub-subdivision a.(iii) of this subdivision.

c. No waiting period. – If an individual seeks to enroll a dependent during the first 30 days of the dependent's special enrollment period, the coverage of the dependent shall become effective: (i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received; (ii) in the case of a dependent's birth, as of the date of the birth; or (iii) in the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

(3) Treatment of special enrollees. –

a. If an individual requests enrollment while the individual is entitled to special enrollment under this subsection, the individual is a special enrollee, even if the request for enrollment coincides with a late enrollment opportunity under the plan. Therefore, the individual cannot be considered a late enrollee.

b. Special enrollees shall be offered all of the benefit packages available to similarly situated individuals who enroll when first eligible. For this purpose, any difference in benefits or cost-sharing requirements for different individuals constitutes a different benefit package. In addition, a special enrollee cannot be required to pay more for coverage than a similarly situated individual who enrolls in the same coverage when first eligible. The length of any preexisting condition exclusion that may be applied to a special enrollee cannot exceed the length of any preexisting condition exclusion that is applied to similarly situated individuals who enroll when first eligible."

SECTION 2.5. G.S. 58-68-30 is amended by adding the following new subsections to read:

"(h) General Notice of Preexisting Condition Exclusion. – A group health insurer offering group health insurance coverage subject to a preexisting condition exclusion shall provide a written general notice of preexisting condition exclusion to participants under the plan; and shall not impose a preexisting condition exclusion with respect to a participant or a dependent of the participant until the notice is provided.

A group health insurer shall provide the general notice of preexisting condition exclusion as part of any written application materials distributed by the insurer for enrollment. If the insurer does not distribute these materials, the notice shall be provided by the earliest date following a request for enrollment that the insurer, acting in a reasonable and prompt fashion, can provide the notice.

The general notice of preexisting condition exclusion shall notify participants of the following:

(1) The existence and terms of any preexisting condition exclusion under the plan. This description includes the length of the plan's look-back period, which shall not exceed six months under subdivision (a)(1) of this section; the maximum preexisting condition exclusion period under the plan, which shall not exceed 12 months (18 months for late enrollees) under subdivision (a)(2) of this section; and how the plan will reduce the maximum preexisting condition exclusion period by creditable coverage, as described in subsection (c) of this section.

(2) A description of the rights of individuals to demonstrate creditable coverage, and any applicable waiting periods, through a certificate of creditable coverage, as required by subsection (e) of this section, or through other means as described in federal regulations. This shall include a description of the right of the individual to request a certificate from a prior insurer, if necessary, and a statement that the current insurer will assist in obtaining a certificate from any prior plan or insurer, if necessary.

(3) A person to contact, including an address or telephone number for obtaining additional information or assistance about the preexisting condition exclusion.

Nothing in this subsection affects a group health insurer's responsibility under this section to fully disclose in the master group policy, the certificate or evidence of coverage, and the member handbook the plan's preexisting condition limitation, the rules relating to creditable coverage, including how an individual may provide proof of creditable coverage, and the methods of counting and crediting coverage.

(i) Individual Notice of Period of Preexisting Condition Exclusion. – After an individual has presented evidence of creditable coverage and the group health insurer has made a determination of creditable coverage under subdivision (c)(5) of this section, the group health insurer shall provide the individual a written notice of the length of preexisting condition exclusion that remains after offsetting for prior creditable coverage. In the notice, the insurer is not required to identify any medical conditions specific to the individual that could be subject to the exclusion. A group health insurer is not required to provide this notice if the plan does not impose any preexisting condition exclusion on the individual or if the plan's preexisting condition exclusion is completely offset by the individual's prior creditable coverage.

The individual notice must be provided by the earliest date following a determination that the group health insurer, acting in a reasonable and prompt fashion, can provide the notice.

A group health insurer shall disclose:

(1) Its determination of any preexisting condition exclusion period that applies to the individual, including the last day on which the preexisting condition exclusion applies.

(2) The basis for that determination, including the source and substance of any information on which the plan or insurer relied.

(3) An explanation of the individual's right to submit additional evidence of creditable coverage.

(4) A description of any applicable appeal procedures established by the group health insurer.

(j) Determination Modification. – Nothing in this section prevents a plan or insurer from modifying an initial determination of creditable coverage if it determines that the individual did not have the claimed creditable coverage, provided that:

(1) A notice of the new determination, consistent with the requirements of subsection (i) of this section, is provided to the individual; and

(2) Until the notice of the new determination is provided, the group health insurer, for purposes of approving access to medical services (such as a presurgery authorization), acts in a manner consistent with the initial determination.

(k) Notice Form and Content. – Any notices required under this section shall be in the form and content and be delivered as prescribed by, in accordance with, or as specified in federal regulations, unless otherwise provided in this Chapter."

SECTION 2.6. Article 58 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-58-141. Portability of group life insurance.**

(a) Definition. – For purposes of this section, "portability" means the prerogative to continue existing group life insurance coverage, or access alternate group life insurance coverage, that may be provided by a group life insurance policy to an individual insured after the individual's affiliation with the initial group terminates.

(b) Applicability. – This section applies to all certificates issued under group policies that are used in this State. This section also applies to a certificate issued under a policy issued and delivered to a trust or to an association outside of this State and covering persons residing in this State.

(c) Prohibitions. – The use of health questions, underwriting, or eligibility requirements that pertain to health status is prohibited when an individual insured elects to access a portability option provided by a group life insurance policy."

PART III. EXTERNAL REVIEW.

SECTION 3.1. G.S. 58-50-82(b)(1) reads as rewritten:

"(b) Within three business days of receiving a request for an expedited external review, the Commissioner shall complete all of the following:

(1) Notify the insurer that made the noncertification, noncertification appeal decision, or second-level grievance review decision which is the subject of the request that the request has been received and provide a copy of the request or verbally convey all of the information included in the request. The Commissioner shall also request any information from the insurer necessary to make the preliminary review set forth in G.S. 58-50-80(b)(2) and require the insurer to deliver the information not later than one business day after the request was made.

…."

SECTION 3.2. G.S. 58-50-82(c) reads as rewritten:

"(c) As soon as possible, but within the same business day of receiving notice under subdivision (b)(2) of this section that the request has been assigned to a review organization, the insurer or its designee utilization review organization shall provide or transmit all documents and information considered in making the noncertification appeal decision or the second-level grievance review decision to the assigned review organization electronically or by telephone or facsimile or any other available expeditious method. A copy of the same information shall be sent by the same means or other expeditious means to the covered person or the covered person's representative who made the request for expedited external review."

SECTION 3.3. G.S. 58-50-95 reads as rewritten:

"§ **58-50-95. Report by Commissioner.**

The Commissioner shall report ~~semiannually~~ annually to the Joint Legislative Health Care Oversight Committee regarding the nature and appropriateness of reviews conducted under this Part. The report, which shall be provided to the public upon request, should include the number of reviews, underlying issues in dispute, character of the reviews, dollar amounts in question, whether the review was decided in favor of the covered person or the health benefit plan, the cost of review, and any other information relevant to the evaluation of the effectiveness of this Part."

PART IV. LONG-TERM CARE INSURANCE.

SECTION 4. G.S. 58-55-20(4) reads as rewritten:

"(4) "Long-term care insurance" means any policy or certificate advertised, marketed, offered, or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. "Long-term care insurance" ~~includes group~~ includes:

a. Group and individual annuities and life insurance policies or riders that supplement or directly provide long-term care insurance.

b. A policy or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity.

c. Qualified long-term care insurance contracts.

d. Group and individual policies whether issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations prepaid health plans, health maintenance organizations, or any similar organization. "Long-term care insurance" does not include any policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

With regard to life insurance, "long-term care insurance" does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care."

PART V. SMALL EMPLOYER GROUP HEALTH INSURANCE.

SECTION 5.1. G.S. 58-50-126(d) reads as rewritten:

"(d) Election. – The small employer carrier elections of the policies to be offered under this section shall apply uniformly to all small employers in this State for that small employer carrier. The election shall be effective for a period of not less than two years. An election under this section shall be made in accordance with G.S. 58-50-127."

SECTION 5.2. Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-50-127. Small employer carrier plan elections.**

A small employer carrier shall submit, in a format prescribed by the Commissioner, an election pursuant to G.S. 58-50-125(d) pertaining to the offering of at least one basic and standard health care plan or the alternative health care plans as provided in G.S. 58-50-126. The election shall be effective for a period of not less than two years. The election shall be submitted with policy forms when they are submitted for approval, or if the policy forms have been previously approved, then no later than February 1 of the year in which the small employer carrier wishes the election to begin. If a small employer carrier does not make a new election, or if the new election is not approved if applicable, the existing election at the end of the two-year election period shall continue to apply for another two-year period."

PART VI. CREDIT INSURANCE.

SECTION 6.1. G.S. 58-57-5 is amended by adding a new subdivision after G.S. 58-57-5(5b) to read:

"(5b) "Critical period conversion ratio" means the ratio of the benefit value of the critical period divided by the benefit value of the full term."

SECTION 6.2. G.S. 58-57-35 is amended by adding a new subsection to read:

"(d) Premium rates for benefits provided during a critical period shall be adjusted by a critical period conversion ratio that reduces the rates giving recognition to the shorter benefit period provided."

PART VII. MISCELLANEOUS PROVISIONS.

SECTION 7.1. G.S. 58-3-35 reads as rewritten:

"**§ 58-3-35. Stipulations as to jurisdiction and limitation of actions.**

(a) No insurer, self-insurer, service corporation, HMO, ~~or MEWA~~ MEWA, continuing care provider, viatical settlement provider, or professional employer organization licensed under this Chapter shall make any condition or stipulation in its ~~insurance~~ contracts ~~or policies~~ concerning the court or jurisdiction in which any suit or action on the contract may be brought.

(b) No insurer, self-insurer, service corporation, HMO, ~~or MEWA~~ MEWA, continuing care provider, viatical settlement provider, or professional employer organization licensed under this Chapter shall limit the time within which any suit or action referred to in subsection (a) of this section may be commenced to less than the period prescribed by law.

(c) All conditions and stipulations forbidden by this section are void."

SECTION 7.2. G.S. 58-3-167(a)(1) reads as rewritten:

"(1) "Health benefit plan" means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by

the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that act provided under federal law or regulation. "Health benefit plan" does not mean any plan implemented or administered by the North Carolina or United States Department of Health and Human Services, or any successor agency, or its representatives. "Health benefit plan" does not mean any ~~of the following kinds of insurance:~~

~~a. Accident.~~
~~b. Credit.~~
~~c. Disability income.~~
~~d. Long-term or nursing home care.~~
~~e. Medicare supplement.~~
~~f. Specified disease.~~
~~g. Dental or vision.~~
~~h. Coverage issued as a supplement to liability insurance.~~
~~i. Workers' compensation.~~
~~j. Medical payments under automobile or homeowners.~~
~~k. Hospital income or indemnity.~~
~~l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.~~
~~m. Short-term limited-duration health insurance policies as defined in Part 144 of Title 45 of the Code of Federal Regulations.~~

plan consisting of one or more of any combination of benefits described in G.S. 58-68-25(b)."

SECTION 7.3. G.S. 58-10-35(c) reads as rewritten:

"(c) After no fewer than 24 months after the mailing of the initial notice of transfer required under G.S. 58-10-30, if positive consent to, or rejection of, the transfer and assumption has not been received or consent has not been deemed to have occurred under subsection (b) of this section, the transferring insurer shall send to the policyholder a second and final notice of transfer as specified in G.S. 58-10-30. If the policyholder does not accept or reject the transfer during the one-month period immediately after the date on which the transferring insurer mailed the second and final notice of transfer, the policyholder's consent and novation of the contract will occur. With respect to the home service business, or any other business not using premium notices, the 24-month and one-month periods shall be measured from the date of delivery of the notice of transfer under G.S. 58-10-30."

SECTION 7.4. G.S. 58-56-51(a) reads as rewritten:

"(a) No person shall act as, offer to act as, or hold himself or herself out as a TPA in this State without a valid TPA license issued by the Commissioner. Licenses shall be renewed annually. Failure to submit a complete renewal application shall result in the expiration of the license of the TPA as a matter of law; provided, however, the Commissioner may grant the TPA an extension of time for good cause."

SECTION 7.5. G.S. 58-56-51(f) reads as rewritten:

"(f) A person is not required to be licensed as a TPA in this State if the person provides services exclusively to one or more bona fide employee benefit plans each of which is established by an employer, an employee organization, or both, and for which the insurance laws of this State are preempted pursuant to the Employee Retirement Income Security Act of 1974. Persons who are not required to be licensed shall register

with the Commissioner annually, verifying their status as described in this subsection. Failure to submit an annual verification shall result in the expiration of the registration of the TPA as a matter of law; provided, however, the Commissioner may grant the TPA an extension of time for good cause."

SECTION 7.6. G.S. 58-58-135(1)c. is repealed.

SECTION 7.7. G.S. 58-58-205(12) reads as rewritten:

"(12) "Viatical settlement provider" or "provider" means a person, other than a viator, that enters into or effectuates a viatical settlement ~~contract.~~ contract on residents of this State or residents of another state from offices within this State. ~~Viatical settlement provider~~ "Viatical settlement provider" or "provider" does not include:

a. A bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;

b. The issuer of a life insurance policy providing accelerated benefits under rules adopted by the Commissioner and under the contract;

c. An authorized or eligible insurer that provides stop-loss coverage to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;

d. A natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;

e. A financing entity;

f. A special purpose entity;

g. A related provider trust;

h. A viatical settlement purchaser; or

i. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended, and who purchases a viaticated policy from a viatical settlement provider."

PART VIII. TEACHERS' AND STATE EMPLOYEES' MAJOR MEDICAL PLAN TECHNICAL CORRECTIONS.

SECTION 8.1. G.S. 58-2-161(a)(1)m. reads as rewritten:

"m. The Teachers' and State Employees' Comprehensive Major Medical Plan and any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes."

SECTION 8.2. G.S. 58-3-171(c) reads as rewritten:

"(c) For purposes of this section, "health benefit plans" means accident and health insurance policies or certificates; nonprofit hospital or medical service corporation contracts; health maintenance organization (HMO) subscriber contracts and other plans provided by managed-care organizations; plans provided by a MEWA or plans provided by other benefit arrangements, to the extent permitted by ERISA; the Teachers' and State Employees' Comprehensive Major Medical ~~Plan;~~ Plan and any optional plans or

programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes; and medical payment coverages under homeowners and automobile insurance policies."

SECTION 8.3. G.S. 58-3-172(b) reads as rewritten:

"(b) For purposes of this section, "health benefit plans" means accident and health insurance policies or certificates; nonprofit hospital or medical service corporation contracts; health, hospital, or medical service corporation plan contracts; health maintenance organization (HMO) subscriber contracts and other plans provided by managed-care organizations; plans provided by a MEWA or plans provided by other benefit arrangements, to the extent permitted by ERISA; and the Teachers' and State Employees' Comprehensive Major Medical ~~Plan.~~ Plan and any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes."

SECTION 8.4. G.S. 58-3-175(a) reads as rewritten:

"(a) As used in this section, "health benefit plan" has the same meaning as in G.S. 58-50-110(11) and includes the Teachers' and State Employees' Comprehensive Major Medical ~~Plan.~~Plan and any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes."

SECTION 8.5. G.S. 58-50-75(b) reads as rewritten:

"(b) This Part applies to all insurers that offer a health benefit plan and that provide or perform utilization review pursuant to G.S. 58-50-61, the Teachers' and State Employees' Comprehensive Major Medical Plan, any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes, and the Health Insurance Program for Children. With respect to second-level grievance review decisions, this Part applies only to second-level grievance review decisions involving noncertification decisions."

SECTION 8.6. G.S. 58-51-115(a) reads as rewritten:

"(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

(1) "Health benefit plan" means any accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; the Teachers' and State Employees' Comprehensive Major Medical Plan and any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes; or a plan provided by another benefit arrangement. "Health benefit plan" does not mean a Medicare supplement policy as defined in G.S. 58-54-1(5).

(2) "Health insurer" means any health insurance company subject to Articles 1 through 63 of this Chapter, including a multiple employee welfare arrangement, and any corporation subject to Articles 65 and 67 of this Chapter; a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974; and the Teachers' and State Employees' Comprehensive Major Medical Plan and any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes."

PART IX. EFFECT OF HEADINGS.

SECTION 9. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

PART X. EFFECTIVE DATES.

SECTION 10. Part I of this act becomes effective January 1, 2008, and applies to violations occurring on or after that date. Sections 7.4 and 7.5 apply to renewal applications submitted on or after October 1, 2007. Section 10 and Parts II, III, V, and VIII are effective when the bill becomes law. The remainder of the act becomes effective October 1, 2007, and applies to policies issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:46 a.m. on the 28th day of July, 2007.

Session Law 2007-299 **House Bill 292**

AN ACT TO AUTHORIZE THE NORTH CAROLINA TURNPIKE AUTHORITY TO STUDY AND UNDERTAKE PRELIMINARY DESIGN WORK FOR A REPLACEMENT FOR THE YADKIN RIVER BRIDGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6H of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-89.183C. Accelerated Yadkin River Bridge Replacement Project.**

(a) Contract for Accelerated Construction of the Yadkin River Bridge Replacement Bridge Project. – The Authority shall study, plan, develop, undertake preliminary design work, and analyze and list all necessary permits, in preparation for construction of a replacement bridge and approaches for the Yadkin River Bridge over the Yadkin River and between Rowan and Davidson Counties, in order to provide accelerated, efficient, and cost-effective completion of the project.

(b) Replacement Bridge; Termini. – The bridge constructed pursuant to this section shall be a replacement bridge, with north and south termini located in general proximity to the termini of the existing Yadkin River Bridge."

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 11:47 a.m. on the 28th day of July, 2007.

Session Law 2007-300 **House Bill 730**

AN ACT TO MAKE TECHNICAL AND SUBSTANTIVE CHANGES IN THE LAWS GOVERNING MEDIATION OF PROPERTY INSURANCE CLAIMS ARISING OUT OF DISASTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-44-70 reads as rewritten:

"§ **58-44-70. Purpose and scope.**

(a) This Part ~~creates~~ provides for a nonadversarial alternative dispute resolution procedure for a facilitated claim resolution conference prompted by the critical need for effective, fair, and timely handling of insurance claims arising out of damages to residential property as the result of ~~a disaster.~~ an event for which there is a state of

disaster declared within 60 days of the event. This Part applies only (i) if a state of disaster has been proclaimed for the State or for an area within the State by the Governor or by a resolution of the General Assembly under G.S. 166A-6; or (ii) if the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as ~~amended.~~ amended; and (iii) if the Commissioner issues an order establishing the mediation procedure authorized by this Part.

(b) The procedure ~~established~~ authorized by this Part is available to all first-party claimants who have insurance claims resulting from damage to residential property occurring in this State. This Part does not apply to commercial insurance, motor vehicle insurance, or to liability coverage contained in property insurance policies.

(c) The Commissioner may designate a person, either within the Department or outside of the Department, as the Administrator or other functionary to carry out any of the Commissioner's duties under this Part."

SECTION 2. G.S. 58-44-80(b) reads as rewritten:

"(b) The insurer shall mail ~~a~~ the notice ~~of the right to mediate disputed claims~~ described in subsection (a) of this section to an insured within five days after the time the insured or the Administrator notifies the insurer of a dispute regarding the insured's claim. The following apply:

…."

SECTION 3. G.S. 58-44-95 reads as rewritten:

"§ **58-44-95. Scheduling of mediation; qualification of mediator.**

(a) The Administrator shall select a mediator and schedule the mediation conference.

(b) In order to be approved, a mediator must be certified by the Dispute Resolution Commission under ~~G.S. 7A-38.2; or, if not, shall be approved at the discretion of the Administrator only if the parties agree on the selected mediator and the proposed mediator is a licensed attorney in North Carolina in good standing with the North Carolina State Bar. A mediator shall not make an award or render a judgment as to the merits of the action.~~ G.S. 7A-38.2."

SECTION 4. G.S. 58-44-100 reads as rewritten:

"§ **58-44-100. Conduct of the mediation conference.**

(a) The Commissioner may adopt rules, in addition to the provisions of this section and that are not in conflict with G.S. 7A-38.1 or the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions adopted by the Supreme Court of North Carolina pursuant to G.S. 7A-38.1 and G.S. 7A-38.2, for the conduct of mediation conferences under this Part. The rules adopted by the Commissioner shall include a requirement of the mediator to advise the parties of the mediation process and their rights and duties in the process.

~~(b) All parties shall negotiate in good faith. A decision by an insurer to stand by a coverage determination shall not be considered a failure to negotiate in good faith. A party shall be determined to have not negotiated in good faith if the party or a person participating on the party's behalf, becomes unduly argumentative or adversarial or continuously disrupts or otherwise inhibits the negotiations, as determined by the mediator.~~

(c) The mediator shall terminate the negotiations if the mediator determines that ~~either party is not negotiating in good faith,~~ either party is unable or unwilling to

participate meaningfully in the ~~process,~~ process or upon mutual agreement of the parties.

~~(d) The party responsible for causing termination shall be responsible for paying the mediator's fee and the administrative fee for any rescheduled mediation.~~

(e) The representative of the insurer attending the conference shall:

(1) Bring, in paper or electronic medium, a copy of the policy and the entire claims file to the conference.

(2) Know the facts and circumstances of the claim and be knowledgeable of the provisions of the policy.

(f) An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle within the limits of the policy.

(g) The mediator shall be in charge of the conference and ~~will~~ shall establish and describe the procedures to be followed. The mediator shall conduct the conference in accordance with the ~~standards of professional conduct for mediation~~ Standards of Professional Conduct for Mediators adopted by the ~~American Arbitration Association, the American Bar Association, the Society of Professionals in Dispute Resolution,~~ Supreme Court of North Carolina and, where not inconsistent, with the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions adopted by the Supreme Court of North Carolina pursuant to G.S. 7A-38.1 and G.S. 7A-38.2. The Commissioner may refer any matter regarding the conduct of any mediator to the North Carolina Dispute Resolution Commission.

(h) All statements made and documents produced at a settlement conference shall be deemed settlement negotiations in anticipation of litigation. The provisions of G.S. 7A-38.1(j), (l), and (m) apply and are incorporated into this Part by reference. If the Commissioner or an employee or designee of the Commissioner attends a settlement conference, the Commissioner, employee, or designee shall not be compelled to testify about what transpired at the settlement conference or about any other matter in connection with the settlement conference.

(i) A party may move to disqualify a mediator for good cause at any time. The request shall be directed to the Administrator if the grounds are known before the mediation conference. Good cause consists of conflict of interest between a party and the mediator, inability of the mediator to handle the conference competently, or other reasons that would reasonably be expected to impair the conference."

SECTION 5. G.S. 58-44-60(a) reads as rewritten:

"(a) Every insurer that sells residential or commercial property insurance policies that do not provide coverage for the perils of flood, earthquake, mudslide, mudflow, or landslide shall, upon the issuance and renewal of each policy, identify to the policyholder which of these perils are not covered under the policy. The insurer shall print the following warning, citing which peril is not covered, in Times New Roman 16-point font or other equivalent font and include it in the policy on a separate page immediately before the declarations page:

"WARNING: THIS PROPERTY INSURANCE POLICY DOES NOT PROTECT YOU AGAINST LOSSES FROM [FLOODS], [EARTHQUAKES], [MUDSLIDES], [MUDFLOWS], [LANDSLIDES]. YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT TO DISCUSS YOUR OPTIONS FOR OBTAINING COVERAGE FOR THESE LOSSES. THIS IS NOT A COMPLETE LISTING OF ALL OF THE CAUSES OF LOSSES NOT COVERED UNDER YOUR POLICY. YOU SHOULD READ YOUR ENTIRE POLICY TO UNDERSTAND WHAT IS COVERED AND WHAT IS NOT COVERED."

SECTION 6. This act becomes effective October 1, 2007, and applies to policies issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 11:50 a.m. on the 28th day of July, 2007.

Session Law 2007-301 **House Bill 367**

AN ACT TO STRENGTHEN THE LAW REGULATING THE SALE OF CERTAIN METALS BY SECONDARY METALS RECYCLERS, TO ADD WIRELESS AND CABLE TELECOMMUNICATIONS EQUIPMENT TO THE STATUTE PROVIDING PENALTIES FOR THE INJURY OR DESTRUCTION OF WIRES, PHONE, TELEGRAPH, AND ELECTRICAL FIXTURES, TO INCREASE THE CRIMINAL PENALTIES FOR VIOLATIONS OF THOSE REGULATIONS OF THE INJURY OR DESTRUCTION OF WIRES, PHONE, TELEGRAPH, AND ELECTRICAL FIXTURES, AND TO PROVIDE FOR FORFEITURE OF VEHICLES USED IN FELONIOUS THEFT OF METALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-11 reads as rewritten:

"§ **66-11. Dealing in regulated metals property; ~~violations of section Class 1 misdemeanor.~~penalties.**

(a) Definitions. – As used in this section:

(1) "Law enforcement officer" means any duly constituted law enforcement officer of the State or of any municipality or county.

(2) "Regulated metals property" means all ferrous and nonferrous metals.

(3) "Secondary metals recycler" means any person, firm, or corporation in the State:

a. That, from a fixed location or otherwise, is ~~predominately~~ engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or

b. That has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, by methods including, but not limited to, the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metals, but not including the exclusive use of hand tools.

(4) "Fixed location" means any site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by the secondary metals recycler for a total duration of not less than 364 days.

(b) Records Required. –

(1) A secondary metals recycler shall maintain a record of all purchase transactions in which the secondary metals recycler purchases regulated metals property.

(2) The following information shall be maintained for transactions in which a secondary metals recycler purchases regulated metals property:

a. The name and address of the secondary metals recycler.

b. The name, initials, or other identification of the individual entering the information.

c. The date of the transaction.

d. The weight of the regulated metals property purchased.

e. The description made in accordance with the custom of the trade of the type of regulated metals property ~~purchased.~~purchased and the physical address where the regulated metals were obtained by the seller, and a statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the property.

f. The amount of consideration given for the regulated metals property.

g. The name and address of the vendor of the regulated metals ~~property.~~property and the license plate number of the vehicle used to deliver the regulated metals.

h. ~~The~~ A photocopy or electronic scan of the drivers license ~~number~~ or state or federally issued photo identification card ~~number issued by the Division of Motor Vehicles~~ of the person delivering the regulated metals property to the secondary metals ~~recycler, or, if~~ recycler. If the secondary metals recycler has a copy of the valid photo identification of the person delivering the regulated metals property on file, the secondary metals recycler must examine the photo identification, but may reference the photo identification that is on file without making a separate photocopy or electronic scan for each subsequent transaction. If the person delivering the regulated metals property does not have a drivers license or ~~an~~ a state or federally issued photo identification card, ~~card issued by the Division of Motor Vehicles, a signed written statement that the delivery person does not have a drivers license or an identification card issued by the Division of Motor Vehicles.~~ the secondary metals recycler shall not complete the transaction.

(3) A secondary metals recycler shall keep and maintain the information required under this subsection for not less than two years from the date of the purchase of the regulated metals property.

(c) Inspection of Regulated Metals Property and Records. – During the usual and customary business hours of a secondary metals recycler, a law enforcement officer shall have the right to inspect either of the following:

(1) Any and all purchased regulated metals property in the possession of the secondary metals recycler.

(2) Any and all records required to be maintained under subsection (b) of this section.

A secondary metals recycler shall make receipts for the purchase of regulated metals property available for pickup each regular workday if requested by the sheriff or chief of police of the county or the chief of police of the municipality in which the secondary metals recycler is located.

(d) ~~Cash Transactions.~~Purchase Limitations. – No secondary metals recycler shall ~~purchase~~ do any of the following:

(1) Purchase regulated metals property for cash consideration from other than a fixed location.

(2) Purchase or receive regulated metals property from minors from other than a fixed location, provided that this provision does not apply to the purchase of aluminum in the form of beverage or food cans.

(d1) Retain Metals for Seven Days Before Selling or Altering. – Any secondary metals recycler owner convicted of a felonious violation of this Chapter, G.S. 14-71, 14-71.1, or 14-72 shall hold and retain any regulated metals product, except for iron and steel products, for seven days from the date of purchase before selling, dismantling, defacing, or in any manner altering or disposing of the regulated metals property.

(e) Right to Restitution. – The court may order a defendant to make restitution to the secondary metals recycler for any damage or loss caused by the defendant arising out of an offense committed by the defendant.

(f) Violations. – Unless the conduct is covered by some other provision of law providing greater punishment, any ~~Any~~ person knowingly and willfully violating any of the provisions of this section shall be guilty of a Class 1 ~~misdemeanor.~~misdemeanor for a first offense. A second or subsequent violation of this section is a Class I felony.

(g) Exemptions. – This section shall not apply to purchases of regulated metals property from a manufacturing, industrial, or other commercial vendor that generates or sells regulated metals property in the ordinary course of its business.

(h) Preemption. – A county or municipality shall not enact any local law, ordinance, or regulation regulating secondary metals recyclers or regulated metals property that conflicts with this section, and this law preempts all existing laws, ordinances, or regulations."

SECTION 2. G.S. 14-154 reads as rewritten:

"§ **14-154. Injuring wires and other fixtures of telephone, telegraph, and electric-power companies.**

If any person shall willfully injure, destroy or pull down any telegraph, telephone, cable telecommunications, or electric-power-transmission pedestal or pole, ~~wire, insulator or any other fixture or apparatus attached to a telegraph, telephone or electric-power-transmission line~~ or any telegraph, telephone, cable telecommunications, or electric power line, wire or fiber insulator, power supply, transformer, transmission or other apparatus, equipment or fixture used in the transmission of telegraph, telephone, cable telecommunications, or electrical power service or any equipment related to wireless communications regulated by the Federal Communications Commission, ~~he~~that person shall be guilty of a Class I Felony.~~Class 1 misdemeanor~~."

SECTION 3. Article 1 of Chapter 66 of the General Statutes is amended by adding the following new section to read:

"**§ 66-11.2. Forfeiture of vehicles used to transport unlawfully obtained regulated metals property.**

(a) Vehicles which are used or intended for use to convey or transport, or in any manner to facilitate the conveyance or transportation of unlawfully obtained regulated metals property, as defined by this Article, are subject to forfeiture, except that:

(1) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission, committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state;

(2) No conveyance shall be forfeited unless the violation involved is a felony;

(3) A forfeiture of a vehicle encumbered by a bona fide security interest is subject to the interest of the secured party who had no knowledge of or consented to the act or omission;

(4) No conveyance shall be forfeited under the provisions of this section unless the owner knew or had reason to believe the vehicle was being used in the commission of any violation that may subject the conveyance to forfeiture under this section.

(b) Any vehicle subject to forfeiture under this section may be seized by any law enforcement officer upon process issued by any district or superior court having jurisdiction over the vehicle except that seizure without such process may be made when:

(1) The seizure is incident to an arrest or a search under a search warrant;

(2) The vehicle subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this section.

(c) Vehicles taken or detained under this section shall not be repleviable, but shall be deemed to be in custody of the law enforcement agency seizing it, which may:

(1) Place the vehicle under seal; or

(2) Remove the vehicle to a place designated by it; or

(3) Request that the North Carolina Department of Justice take custody of the vehicle and remove it to an appropriate location for disposition in accordance with law.

Any vehicle seized by a State, local, or county law enforcement officer shall be held in safekeeping as provided in this subsection until an order of disposition is properly entered by the judge.

(d) Whenever a vehicle is forfeited under this section, the law enforcement agency having custody of it may:

(1) Retain the vehicle for official use; or

(2) Sell any forfeited vehicle, provided that the proceeds be disposed of for payment of all proper expenses of the proceedings for forfeiture and sale, including expense of seizure, maintenance of custody, advertising, and court costs; or

(3) Transfer any vehicles which are forfeited under the provisions of this section to the North Carolina Department of Justice when, in the discretion of the presiding judge and upon application of the North Carolina Department of Justice, said vehicle may be of official use to the North Carolina Department of Justice;

(4) Upon determination by the director of any law enforcement agency that a vehicle transferred pursuant to the provisions of this section is of no further use to said agency for use in official investigations, such vehicle may be sold as surplus property in the same manner as other vehicles owned by the law enforcement agency, and the proceeds from such sale after deducting the cost of sale shall be paid to the treasurer or proper officer authorized to receive fines and forfeitures to be used for the school fund of the county in the county in which said vehicle was seized; provided, that any vehicle transferred to any law enforcement agency under the provisions of this section which has been modified to increase speed shall be used in the performance of official duties only and not for resale, transfer, or disposition other than as junk."

SECTION 4. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 11:52 a.m. on the 28th day of July, 2007.

Session Law 2007-302 **House Bill 1536**

AN ACT TO LIMIT THE LIABILITY OF DEALERS OF LIQUEFIED PETROLEUM GAS AND THEIR EMPLOYEES, AGENTS, AND SUBCONTRACTORS UNDER CERTAIN SPECIFIED CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 119 of the General Statutes is amended by adding a new section to read:

"**§ 119-62. Liquefied petroleum gas dealers and their employees, agents, subcontractors; liability limitations.**

(a) A dealer shall not be liable for any civil damages resulting from any act or failure to act if the alleged injury, damage, or loss claimed in the action was caused by any one or more of the following:

(1) The installation, alteration, modification, or repair of liquefied petroleum gas equipment or a liquefied petroleum gas appliance by a person, other than the dealer, and the installation, alteration, modification, or repair was done without the knowledge and consent of the dealer.

(2) The use of liquefied petroleum gas equipment or a liquefied petroleum gas appliance by a person, other than the dealer, in a manner or for a purpose other than that for which the equipment or appliance was intended, and the use of the equipment or appliance in a manner or for a purpose other than that for which the equipment or appliance was intended took place without the knowledge and consent of the dealer.

(3) The installation of liquefied petroleum gas equipment or a liquefied petroleum gas appliance by a person, other than the dealer, in a manner not in accordance with the instructions of the manufacturer of the equipment or appliance or in a manner not in accordance with rules

adopted under this Article, and the installation of the equipment or appliance in a manner not in accordance with the instructions of the manufacturer of the equipment or appliance or in a manner not in accordance with rules adopted under this Article took place without the knowledge and consent of the dealer.

(b) Nothing in this section alters a dealer's duty to exercise reasonable care.

(c) As used in this section, 'dealer' means dealer as defined in G.S. 119-54 and any employee, agent, and subcontractor of the dealer."

SECTION 2. This act becomes effective October 1, 2007, and applies to acts or omissions occurring on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 11:54 a.m. on the 28th day of July, 2007.

Session Law 2007-303 **House Bill 735**

AN ACT TO STREAMLINE THE CONSTRUCTION PLAN REVIEW PROCESS FOR CERTAIN PUBLIC BUILDINGS, AS REQUESTED BY THE HOUSE SELECT COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-31-40(b) reads as rewritten:

"(b) No agency or other person authorized or directed by law to select a plan and erect a building for the use of the State or any State institution shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents. No agency or person authorized or directed by law to select a plan or erect a building comprising ~~10,000~~ 20,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents."

SECTION 2. This act becomes effective October 1, 2007, and applies to plans submitted to the Commissioner for approval on or after that date as to the safety of any proposed county, city, or school district building comprising 20,000 square feet or more from fire including the property's occupants or contents.

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 11:56 a.m. on the 28th day of July, 2007.

Session Law 2007-304 **House Bill 1025**

AN ACT TO AUTHORIZE EMPLOYERS TO AMORTIZE THE PAYMENT OF THE COST OF PROBATIONARY EMPLOYMENT FOR MEMBERS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-26(q) reads as rewritten:

"(q) Credit at Full Cost for Probationary Employment. – Notwithstanding any other provision of this Chapter, a member may purchase creditable service, prior to retirement, for employment with an employer as defined in this Article when considered to be in a probationary or employer imposed waiting period status and thereby not regularly employed, between date of employment and date of membership service with the retirement system, provided that the employer or former employer of such a member has revoked this probationary employment or waiting period policy.

Provided, the member shall purchase this service by making a lump sum amount payable to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the liabilities of the retirement system, and the calculation of the amount payable shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. In no instance shall the amount payable be less than the contributions a member would have made during the employment plus four percent (4%) interest compounded annually.

~~Nothing contained in this subsection shall prevent an employer from paying all or part of the cost; and, to the extent paid by an employer, payments shall be credited to the Pension Accumulation Fund; and to the extent paid by a member, payments shall be credited to the Annuity Savings Fund; provided, however, an employer may not discriminate against any member or group of members in his employ in paying all or any part of this cost.~~ Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the probationary employment; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the member shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in its current employ in paying all or any part of the cost of the probationary employment. In the event an employer pays all or a part of the full actuarial cost, the employer may, at its option, pay such amount either in a lump sum or by increasing its "accrued liability contribution" for the remainder of its accrued liability period. In the event an employer has satisfied its accrued liability contribution, the employer may amortize its portion of the full actuarial cost over a period not to exceed 10 years. The expense of making an actuarial valuation to determine the accrued liability contribution or the additional accrued liability contribution, required to amortize the portion of the full actuarial cost paid by the employer, shall be paid by the employer in a lump sum at the time of the actuarial valuation."

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

In the General Assembly read three times and ratified this the 17th day of July, 2007.

Became law upon approval of the Governor at 12:04 p.m. on the 28th day of July, 2007.

Session Law 2007-305 **House Bill 588**

AN ACT TO UPDATE AND IMPROVE LAWS COVERING UNAUTHORIZED INSURERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-28-45 reads as rewritten:

"§ **58-28-45. ~~Uniform~~ Unauthorized ~~Insurers Act.~~ Insurers; prohibited acts.**

(a) No ~~person, corporation, association or partnership~~ person shall in this State act as agent for any insurer not authorized to transact business in this State, or negotiate for or place or aid in placing insurance coverage in this State for another with any such insurer.

(b) No ~~person, corporation, association or partnership~~ person shall in this State aid any unauthorized insurer in effecting insurance or in transacting insurance business in this State, either by fixing rates, by adjusting or investigating losses, by inspecting or examining risks, by acting as attorney-in-fact or as attorney for service for process, or otherwise, except as provided in ~~subsection (e) hereof.~~ this section or in G.S. 58-16-35.

(c) No ~~person, corporation, association or partnership~~ person shall make, negotiate for or place, or aid in negotiating or placing any insurance contract in this State for another who is an applicant for insurance covering any property or risk in another state, territory or district of the United States with any insurer not authorized to transact insurance business in the state, territory or district wherein such property or risk or any part thereof is located.

(d) ~~The provisions of the three foregoing subsections~~ Subsections (a), (b), and (c) of this section do not apply to contracts of reinsurance, or to contracts of insurance made through surplus lines licensees as provided in Article 21 of this Chapter, nor do they apply to any insurer not authorized in this State, or its representatives, in investigating, adjusting losses or otherwise complying in this State with the terms of its insurance contracts made in a state wherein the insurer was authorized; provided, the property or risk insured under such contracts at the time such contract was issued was located in such other state. A motor vehicle used and kept garaged principally in another state shall be deemed to be located in such state.

(e) (1) Repealed by Session Laws 1985, c. 666, s. 40.

(2) Such service of process shall be made by delivering and leaving with the Commissioner or to some person in apparent charge of his office two copies thereof and the payment to him of such fees as may be prescribed by law. The Commissioner shall forthwith mail by registered mail one of the copies of such process to the defendant at its last known principal place of business, and shall keep a record of all such process so served upon him. Such service of process is sufficient provided notice of such service and a copy of the process are sent within 10 days thereafter by registered mail by plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such

further time as the court may allow. However, no plaintiff or complainant shall be entitled to a judgment by default under this subdivision (2) until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(3) Service of process in any such action, suit or proceeding shall be in addition to the manner provided in the preceding subdivision (2) be valid if served upon any person within this State who, in this State on behalf of such insurer, is

a. Soliciting insurance, or

b. Making any contract of insurance or issuing or delivering any policies or written contracts of insurance, or

c. Collecting or receiving any premium for insurance; and a copy of such process is sent within 10 days thereafter by registered mail by plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

d. Nothing in this subsection (e) shall limit or abridge the right to serve process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

(f) No unauthorized insurer shall institute or file, or cause to be instituted or filed, any suit, action or proceeding in this State to enforce any right, claim or demand arising out of the transaction of business in this State until such insurer shall have obtained a license to transact insurance business in this State. Nothing in this subsection shall be construed to require an unauthorized insurance company to obtain a license before instituting or filing, or causing to be instituted or filed, any suit, action or proceeding either in connection with any of its investments in this State or in connection with any contract issued by it at a time when it was authorized to do business in the state where such contract was issued.

(g) (1) Before any unauthorized insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unauthorized insurer shall either

a. File with the clerk of the court in which such action, suit or proceeding is pending a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action or

b. Procure a license to transact the business of insurance in this State.

(2) The court in any action, suit or proceeding in which service is made in the manner prescribed in subdivisions (2) and (3) of subsection (e) may order such postponement as may be necessary to afford the

defendant reasonable opportunity to comply with the provisions of subdivision (1) of this subsection (g) and to defend such action.

(3) Nothing in subdivision (1) of this subsection (g) shall be construed to prevent an unauthorized insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in subdivisions (2) and (3) of subsection (e) on the ground either

a. That no policy or contract of insurance has been issued or delivered to a citizen or resident of this State or to a corporation authorized to do business therein, or

b. That such insurer has not been transacting business in this State, or

c. That the person on whom service was made pursuant to subdivision (3) of subsection (e) was not doing any of the acts enumerated therein.

(h) Except as provided in G.S. 58-33-95, any ~~person, corporation, association or partnership~~ person violating ~~any of the provisions~~ subsection (a), (b), (c), or (k) of this section shall be guilty of a ~~Class 3 misdemeanor~~ Class H felony and shall ~~only~~ be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000). Any person violating subsections (e), (f), and (g) of this section shall be guilty of a Class 1 misdemeanor and shall only be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000). For the purposes of the fine imposed by this subsection, each day during which a violation occurs constitutes a separate violation.

~~(i) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.~~

~~(j) This section may be cited as the Uniform Unauthorized Insurers Act.~~

(k) No person shall act as an officer, director, or controlling person for a person who is engaged in a violation of subsection (a), (b), or (c) of this section. As used in this subsection, "controlling" has the same meaning as in G.S. 58-19-5(2).

(l) In addition to any other penalties or remedies provided by law, any person who violates this section shall be strictly liable for any losses or unpaid claims if an unauthorized insurer fails to pay in full or in part any claim or loss within the provisions of any insurance contract issued by or on behalf of the unauthorized insurer in violation of this Article. The liability imposed by this subsection shall be joint and several if more than one person violates this section.

(m) A civil action may be filed under this section regardless of whether a criminal action is brought or a criminal conviction is obtained for the act alleged in the civil action."

SECTION 2. G.S. 58-28-20(a) reads as rewritten:

"(a) Whenever the Commissioner has reasonable grounds to believe that any person is violating or is about to violate ~~G.S. 58-28-5,~~ G.S. 58-28-5, 58-28-45, or 58-33-95, the Commissioner may, after notice and opportunity for hearing, make written findings and issue and cause to be served upon the person an order to cease and desist violating ~~G.S. 58-28-5.~~ G.S. 58-28-5, 58-28-45, or 58-33-95."

SECTION 3. G.S. 58-28-20(d) reads as rewritten:

"(d) Whenever the Commissioner has evidence that any person has or is violating ~~G.S. 58-28-5,~~ G.S. 58-28-5 or G.S. 58-28-45, or has or is violating any order or requirement of the Commissioner issued by the Commissioner under this Article, and that the interests of policyholders, creditors, or the public may be irreparably harmed by

delay, the Commissioner may issue an emergency cease and desist order that shall become effective on the date specified in the order or upon service of a certified copy of the order upon the person ordered to cease and desist, whichever is later. The emergency cease and desist order shall also include a notice of hearing, which shall be conducted as provided under Article 3A of Chapter 150B of the General Statutes. However, the person ordered to cease and desist under this subsection may request and shall be granted an expedited review of the order. The emergency order shall remain in effect prior to and during the proceedings, unless modified by the Commissioner as provided under subsection (b) of this section."

SECTION 4. G.S. 58-28-5(a) reads as rewritten:

"(a) Except as otherwise provided in this section, it is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this State as set forth in G.S. 58-28-10, without a license issued by the Commissioner. This section does not apply to the following acts or transactions:

(1) The procuring of a policy of insurance upon a risk within this State where the applicant is unable to procure coverage in the open market with admitted companies and is otherwise in compliance with Article 21 of this Chapter.

(2) Contracts of reinsurance; but not including assumption reinsurance transactions, whereby the reinsuring company succeeds to all of the liabilities of and supplants the ceding company on the insurance contracts that are the subject of the transaction, unless prior approval has been obtained from the Commissioner.

(3) Transactions in this State involving a policy lawfully solicited, written and delivered outside of this State covering only subjects of insurance not resident, located or expressly to be performed in this State at the time of issuance, and which transactions are subsequent to the issuance of such policy.

(4) Transactions in this State involving group life insurance, group annuities, or group, blanket, or franchise accident and health insurance where the master policy for the insurance was lawfully issued and delivered in a state in which the company was authorized to transact business.

(5) Transactions in this State involving all policies of insurance issued before July 1, 1967.

(6) The procuring of contracts of insurance issued to a nuclear insured. As used in this subdivision, "nuclear insured" means a public utility procuring insurance against radioactive contamination and other risks of direct physical loss at a nuclear electric generating plant.

(7) Insurance independently procured, as specified in subsection (b) of this section.

(8) Insurance on vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine insurance policies, as distinguished from inland marine insurance policies.

(9) Transactions in this State involving commercial aircraft insurance, meaning insurance against (i) loss of or damage resulting from any cause to commercial aircraft and its equipment, (ii) legal liability of the insured for loss or damage to another person's property resulting

from the ownership, maintenance, or use of commercial aircraft, and (iii) loss, damage, or expense incident to a liability claim.

(10) An activity in this State by or on the sole behalf of a captive insurer that insures solely the risks of the company's parent and affiliated companies."

SECTION 5. G.S. 58-33-95(a)(1) reads as rewritten:

"(1) Is the representative of that insurer and shall be strictly liable for any losses or unpaid claims if an unauthorized insurer fails to pay in full or in part any claim or loss within the provisions of any insurance contract sold, directly or indirectly, by or through that person or entity on behalf of the unauthorized insurer. The liability imposed by this subsection shall be joint and several if more than one person violates this section."

SECTION 6. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 7. Section 4 of this act is effective when it becomes law. The remainder of this act becomes effective December 1, 2007, and applies to offenses or acts committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 12:07 p.m. on the 28th day of July, 2007.

Session Law 2007-306 **House Bill 646**

AN ACT TO MAKE THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM'S DEBT COLLECTION PRACTICES MORE PATIENT FRIENDLY AND TO ASSIST CERTAIN PATIENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-37(f) reads as rewritten:

"(f) Finances – Patient/Health Care System Benefit. – The Chief Executive Officer of the University of North Carolina Health Care System, or the Chief Executive Officer's designee, may expend operating budget funds, including State funds, of the University of North Carolina Health Care System for the direct benefit of a patient, when, in the judgment of the Chief Executive Officer or the Chief Executive Officer's designee, the expenditure of these funds would result in a financial benefit to the University of North Carolina Health Care System. Any such expenditures are declared to result in the provision of medical services and create charges of the University of North Carolina Health Care System for which the health care system may bill and pursue recovery in the same way as allowed by law for recovery of other health care systems' charges for services that are unpaid.

These expenditures shall be ~~limited to no more than seven thousand five hundred dollars ($7,500) per patient per admission and shall be~~ restricted (i) to situations in which a patient is financially unable to afford ambulance or other transportation for discharge; (ii) to afford placement in an after-care ~~facility pending approval of third-party entitlement benefits;~~ facility; (iii) to assure availability of a bed in an

after-care facility after discharge from the hospitals; (iv) to secure equipment or other medically appropriate services after discharge; or (v) to pay health insurance premiums. The Chief Executive Officer or the Chief Executive Officer's designee shall reevaluate at least once a month the cost-effectiveness of any continuing payment on behalf of a patient.

To the extent that the University of North Carolina Health Care System advances anticipated government entitlement benefits for a patient's benefit, for which the patient later receives a lump-sum "back-pay" award from an agency of the State, whether for the current admission or subsequent admission, the State agency shall withhold from this back pay an amount equal to the sum advanced on the patient's behalf by the University of North Carolina Health Care System, if, prior to the disbursement of the back pay, the applicable State program has received notice from the University of North Carolina Health Care System of the advancement."

SECTION 2. G.S. 143-553(a) reads as rewritten:

"(a) All persons employed by an employing entity as defined by this Part who owe money to the State and whose salaries are paid in whole or in part by State funds must make full restitution of the amount owed as a condition of continuing ~~employment.~~ employment; provided, however, that no employing entity shall terminate for failure to make full restitution the employment of such an employee who owes money to the University of North Carolina Health Care System for health care services."

SECTION 3. G. S. 147-86.11(e) reads as rewritten:

"(e) Elements of Plan. – For moneys received or to be received, the statewide cash management plan shall provide at a minimum that:

(1) Except as otherwise provided by law, moneys received by employees of State agencies in the normal course of their employment shall be deposited as follows:
   a. Moneys received in trust for specific beneficiaries for which the employee-custodian has a duty to invest shall be deposited with the State Treasurer under the provisions of G.S. 147-69.3.
   b. All other moneys received shall be deposited with the State Treasurer pursuant to G.S. 147-77 and G.S. 147-69.1.

(2) Moneys received shall be deposited daily in the form and amounts received, except as otherwise provided by statute.

(3) Moneys due to a State agency by another governmental agency or by private persons shall be promptly billed, collected and deposited.

(4) Unpaid billings due to a State agency other than amounts owed by patients to the University of North Carolina Health Care System shall be turned over to the Attorney General for collection no more than 90 days after the due date of the billing, except that a State agency need not turn over to the Attorney General unpaid billings of less than five hundred dollars ($500.00), or (for institutions where applicable) amounts owed by all patients which are less than the federally established deductible applicable to Part A of the Medicare program, and instead may handle these unpaid bills pursuant to agency debt collection procedures.

(4a) The University of North Carolina Health Care System may turn over to the Attorney General for collection accounts owed by patients.

(5) Moneys received in the form of warrants drawn on the State Treasurer shall be deposited by the State agency directly with the State Treasurer

and not through the banking system, unless otherwise approved by the State Treasurer.

(6) State agencies shall accept payment by electronic payment in accordance with G.S. 147-86.22 to the maximum extent possible consistent with sound business practices."

SECTION 4. G.S. 147-86.23 reads as rewritten:

"§ **147-86.23. Interest and penalties.**

A State agency shall charge interest at the rate established pursuant to G.S. 105-241.1(i) on a past-due account receivable from the date the account receivable was due until it is paid. A State agency shall add to a past-due account receivable a late payment penalty of no more than ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty for good cause shown. If another statute requires the payment of interest or a penalty on a past-due account receivable, this section does not apply to that past-due account receivable. This section does not apply to money owed to the University of North Carolina Health Care System for health care services."

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

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 12:10 p.m. on the 28th day of July, 2007.

Session Law 2007-307 **House Bill 1724**

AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE, TO REDESIGNATE ELK KNOB STATE NATURAL AREA AS ELK KNOB STATE PARK, AND TO REDESIGNATE DISMAL SWAMP STATE NATURAL AREA AS DISMAL SWAMP STATE PARK.

Whereas, Section 5 of Article XIV of the Constitution of North Carolina authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by a law enacted by a three-fifths vote of the members of each house of the General Assembly and provides for removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443 of the 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes set out in Section 5 of Article XIV of the Constitution of North Carolina; and

Whereas, over 20,350 acres have been added to the State Parks System since the last dedication and acceptance of properties as part of the State Nature and Historic Preserve pursuant to a petition of the Council of State dated 1 May 2007; and

Whereas, in accordance with G.S. 143-260.8, on 1 May 2007 the Council of State voted to petition the General Assembly to enact a law pursuant to Section 5 of Article XIV of the Constitution of North Carolina to dedicate and accept properties added to the State Parks System and designated in the petition for inclusion as parts of the State Nature and Historic Preserve; and

Whereas, as a part of its petition of 1 May 2007, the Council of State also requested the General Assembly to remove certain properties from the State Nature and Historic Preserve; and

Whereas, G.S. 113-44.14 provides for additions to, and deletions from, the State Parks System upon authorization by the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

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

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

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

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~6 May 2003:~~ 1 May 2007: Baldhead Island State Natural Area, Bay Tree Lake State Park, Beech Creek Bog State Natural Area, Bullhead Mountain State Natural Area, Bushy Lake State Natural Area, Carolina Beach State Park, Carvers Creek State Park, Chimney Rock State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State ~~Natural Area,~~ Park, Elk Knob State ~~Natural Area,~~ Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Haw River State Park, Hammocks Beach State Park, Jones Lake State Park, ~~Lake James State Park,~~ Lake Norman State Park, Lake Waccamaw State Park, Lea Island State Natural Area, Lower Haw River State Natural Area, Lumber River State Park, Mayo River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, Mountain Bog State Natural Area, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Sandy Run Savannas State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~6 May 2003~~ 1 May 2007 with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(3) Repealed by Session Laws 1999-268, s. 2.

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~6 May 2003~~ 1 May 2007 with the exception of the following tract:

That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) Repealed by Session Laws 1999-268, s. 2.

(6) All land within the boundaries of Crowders Mountain State Park as of ~~6 May 2003~~1 May 2007 with the exception of the following ~~tracts:~~tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

a. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office. ~~The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, Number Four Township, described in Deed Book 1286, Page 85, and containing 1.64 acres as shown on the drawing prepared by the Division of Parks and Recreation entitled "Property to Be Excepted Crowders Mountain State Park" dated 14 April 2003, and filed in the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.~~

b. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, east of and including the right-of-way along and across Old Peach Orchard Road, as shown in a survey by the City of Gastonia, File No. 400-194, dated November 23, 1998, and filed in the State Property Office.

(7) All lands owned in fee simple by the State within the boundaries of New River State Park as of ~~6 May 2003.~~ 1 May 2007.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~6 May 2003~~1 May 2007 with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park

Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 ~~acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, Page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled "Property Exchange Agreement for State of North Carolina & the United States of America", and filed in the State Property Office.~~acres. The ~~tracts~~tract excluded from the State Nature and Historic Preserve under this subdivision ~~are~~ is deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~6 May 2003:~~ 1 May 2007: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.

(10), (11) Repealed by Session Laws 2001-217, s. 2, effective June 15, 2001.

(12) All lands and waters located within the boundaries of Hanging Rock State Park as of ~~6 May 2003~~1 May 2007 with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All lands and waters located within the boundaries of South Mountains State Park as of ~~6 May 2003~~1 May 2007 with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.

~~a.~~ ~~The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership~~

~~Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.~~

~~b. The portion of those certain tracts or parcels of land at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 925, Page 1284, and Deed Book 870, Page 1729 required for the right-of-way and easements for the relocation of SR 1904 within the Park and shown on the drawing prepared by Suttles Surveying P.A. entitled "Survey of the Proposed Centerline of the New Road Alignment for the State of North Carolina" bearing the preparer's file name 12455D.dwg, dated 10 April 2003, and filed in the State Property Office. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.~~

c. The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

~~d. The portion of that certain tract or parcel of land at South Mountains State Park in Burke County, Morganton Township, described in Deed Book 28, Page 607, Deed Book 28, Page 467, and Plat Book 3, Page 78, and containing 0.33 acres as shown on the drawing prepared by Hawkins Land Surveying entitled "Subdivision for Trustees of Walker Top Baptist Church" dated 26 September 2001, and filed with the State Property Office. The State may transfer this property to the Trustees of Walker Top Baptist Church to be used for church purposes. The instrument transferring this property shall~~

~~provide that the State retains a possibility of reverter and shall provide that, in the event that the Walker Top Baptist Church ceases to use the property for church purposes, the property shall revert to the State. The State may not otherwise sell or exchange the property.~~

(14) Repealed by Session Laws 2003-234, s. 1, effective June 19, 2003.

(15) All lands and waters within the boundaries of Jockey's Ridge State Park as of ~~6 May 2003~~1 May 2007 with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(16) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of ~~6 May 2003.~~ 1 May 2007. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes.

(17) All lands and waters within the Eno River State Park as of ~~6 May 2003~~ 1 May 2007 with the exception of the following tract: The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Durham Outside Township, described in Deed Book 435, Page 673, and Plat Book 87, Page 66, containing 11,000 square feet and being the portion of Lot No. 2 shown as the existing scenic easement hereby removed on the drawing prepared by Sear-Brown entitled "Recombination Plat Eno Forest Subdivision" bearing the preparer's file name 00-208-07.dwg, and filed with State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(18) All land and waters within the boundaries of Hemlock Bluffs State Natural Area as of ~~6 May 2003,~~ 1 May 2007, with the exception of the following tracts: The portion of that certain tract or parcel of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 2461, Page 037, containing 2,025 square feet and being the portion of this tract shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green sheet 1 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Hemlock Bluffs State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(19) All lands and waters within the boundaries of Lake James State Park as of 1 May 2007, with the exception of the following tracts:

a. The portion of that certain tract or parcel of land at Lake James State Park containing 13.85 acres, and being 100 feet to the east and 150 feet to the west of a centerline shown on a survey by Witherspoon Surveying PLLC, dated February 9, 2007, and filed in the State Property Office. The State of North Carolina may grant a temporary easement to Duke Energy Corporation

across this tract to facilitate the Catawba Dam Embankment Seismic Stability Improvements Project. The grant of the easement within Lake James State Park to Duke Energy Corporation under this sub-subdivision constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of Lake James State Park or another State park. The State may not otherwise sell or exchange this land.

b. The portion of that certain tract or parcel of land at Lake James State Park in McDowell County, Nebo Township, described in Deed Book 377, Page 423, and also shown as Tract B on the plat of survey prepared by Kenneth D. Suttles, RLS, dated December 4, 1987, entitled "Lake James State Park," Sheet 1 of 2, recorded in Plat Book 4, Page 275 of the McDowell County Registry, for a 40-foot right-of-way beginning at the southwest corner of Tract B and continuing along the southern boundary S 86 38' 51" E for 400 feet to the now or former John D. Walker property. The State of North Carolina may grant an easement across this tract to extinguish prescriptive easements on Tract B to improve management of the State park property. The State may not otherwise sell or exchange this land. The easement excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14."

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

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Became law upon approval of the Governor at 12:11 p.m. on the 28th day of July, 2007.

Session Law 2007-308 **House Bill 1555**

AN ACT PROVIDING FOUR-YEAR TERMS FOR ALL APPOINTMENTS TO THE PROPERTY TAX COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-288(a) reads as rewritten:

"(a) Creation and Membership. – The Property Tax Commission is created. It consists of five members, three of whom are appointed by the Governor and two of whom are appointed by the General Assembly. Of the two appointments by the General Assembly, one shall be made upon the recommendation of the Speaker of the House of Representatives and the other shall be made upon the recommendation of the President Pro Tempore of the Senate. The terms of the members ~~appointed by the Governor and of the member appointed upon the recommendation of the President Pro Tempore of the~~

~~Senate are for four years. Of the members appointed for four-year terms, two expire on June 30 of each odd-numbered year. The term of the member appointed upon the recommendation of the Speaker of the House of Representatives is for two years and it expires on June 30 of each odd-numbered year~~ are for four years and expire on June 30. The General Assembly shall make its appointments in accordance with G.S. 120-121 and shall fill a vacancy in accordance with G.S. 120-122. A vacancy occurs on the Commission when a member resigns, is removed, or dies. The person appointed to fill a vacancy shall serve for the balance of the unexpired term. The Governor may remove any member for misfeasance, malfeasance, or nonfeasance.

The Commission shall have a chair and a vice-chair. The Governor shall designate one of the Commission members as the chair, to serve at the pleasure of the Governor. The members of the Commission shall elect a vice-chair from among its membership. The vice-chair serves until the member's regularly appointed term expires."

SECTION 2. This act is effective when it becomes law and applies to appointments made after July 1, 2007.

In the General Assembly read three times and ratified this the 17th day of July, 2007.

Became law upon approval of the Governor at 12:12 p.m. on the 28th day of July, 2007.

Session Law 2007-309 **House Bill 463**

AN ACT TO MODIFY THE CREDIT FOR CERTAIN REAL PROPERTY DONATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.34 reads as rewritten:

"§ **105-130.34. Credit for certain real property donations.**

(a) Any ~~corporation~~ C Corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, ~~or other similar land conservation purposes~~ (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed five hundred thousand dollars ($500,000). To support the credit allowed by this section, the taxpayer must file with ~~its~~ the income tax ~~return,~~return for the taxable year in which the credit is ~~claimed, a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~claimed the following:

(1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9."

SECTION 2. G.S. 105-151.12 reads as rewritten:

"§ **105-151.12. Credit for certain real property donations.**

(a) ~~A person who~~An individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, ~~or (iv) other similar land conservation purposes~~(iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. ~~The credit allowed under this section may not exceed two hundred fifty thousand dollars ($250,000).~~ To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed ~~a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.~~the following:

(1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.

(2) A self-contained or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the

property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty thousand dollars ($250,000). In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a husband and wife filing a joint tax return may not exceed five hundred thousand dollars ($500,000). If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(a2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through entity in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of another pass-through entity, may not exceed five hundred thousand dollars ($500,000). Each individual who is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed two hundred fifty thousand dollars ($250,000). Each corporation that is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed five hundred thousand dollars ($500,000). If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Repealed by Session Laws 1998-212, s. 29A.13(b).

~~(d) In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.~~

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.

~~(f) Notwithstanding G.S. 105-269.15, the maximum dollar limit that applies in determining the amount of the credit applicable to a partnership that qualifies for the credit applies separately to each partner.~~"

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2007.

In the General Assembly read three times and ratified this the 17th day of July, 2007.

Became law upon approval of the Governor at 12:15 p.m. on the 28th day of July, 2007.

Session Law 2007-310 **Senate Bill 116**

AN ACT TO PROVIDE STAGGERED FOUR-YEAR TERMS FOR THE ELLENBORO TOWN COUNCIL, AND A FOUR-YEAR TERM FOR MAYOR.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.2 of the Charter of the Town of Ellenboro, being Chapter 425 of the 1983 Session Laws, reads as rewritten:

"Sec. 2.2. Town Council; Composition; Terms of Office. The Town Council shall be composed of 5 members, each of whom shall be elected for a term of ~~2 years~~ four years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified."

SECTION 2. Section 2.3 of the Charter of the Town of Ellenboro, being Chapter 425 of the 1983 Session Laws, reads as rewritten:

"Sec. 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of ~~2 years,~~ four years or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Council. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town."

SECTION 3. Section 3.2 of the Charter of the Town of Ellenboro, being Chapter 425 of the 1983 Session Laws, reads as rewritten:

"Sec. 3.2. Election of Council Members. ~~At the regular municipal election in 1983 and biennially thereafter, all~~ All council members shall be nominated and voted upon by the voters of the Town voting at large. At the regular municipal election in 2007, the persons receiving the two highest numbers of votes are elected to four-year terms, and the three persons receiving the next highest numbers of votes are elected to two-year terms. In 2009 and quadrennially thereafter, three members are elected for four-year terms. In 2011 and quadrennially thereafter, two members are elected for four-year terms."

SECTION 4. Section 3.3 of the Charter of the Town of Ellenboro, being Chapter 425 of the 1983 Session Laws, reads as rewritten:

"Sec. 3.3. Election of the Mayor. At the regular municipal election in ~~1983, and biennially~~ 2007, and quadrennially thereafter, there shall be elected a Mayor to serve a term of ~~two~~ four years. The Mayor shall be elected by the voters of the Town voting at large."

SECTION 5. This act does not affect the terms of office of those elected in 2005.

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-311 **Senate Bill 220**

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE CITY OF ROANOKE RAPIDS AND THE TOWNS OF AHOSKIE, COLUMBUS, AND WELDON.

The General Assembly of North Carolina enacts:

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

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

…

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-312 **Senate Bill 403**

AN ACT AUTHORIZING THE CITY OF CHARLOTTE TO CONSTRUCT WATER TREATMENT PLANT AND WASTEWATER TREATMENT PLANT PROJECTS WITHOUT COMPLYING WITH SPECIFIED PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Charlotte may contract for the design and construction or design, construction, and operation of water treatment and wastewater treatment plant projects for the purpose of providing services throughout Mecklenburg County without being subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132,. 143-64.31, and 143-64.32. The authorization includes, if deemed appropriate by the Charlotte City Council, the use of the single-prime contractor method of design

and construction, the design-build or design-build-operate method of construction, or a request for proposals and negotiation as an alternative design and construction method.

SECTION 2. The City of Charlotte shall request proposals from and interview at least three design-build teams, or design-build-operate teams, as appropriate, that have submitted proposals for a water treatment plant or wastewater treatment project. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, then the City may proceed with the proposals received. The Council shall award the contract to the best qualified contractor, taking into account the time of completion of the project, the capital and operation and maintenance cost of the project, the technical merits of the proposal including, but not limited to, reliability and protection of the environment, and any other factors and information set forth in the request for proposals that the City determines to have a material bearing on the ability to evaluate any proposal.

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-313 **Senate Bill 493**

AN ACT TO AMEND THE LAW REGULATING ROAD HUNTING AND HUNTING ON THE LAND OF ANOTHER IN BERTIE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2001-367 reads as rewritten:

"**SECTION 1.** It is unlawful to hunt, take, or kill any wild animal or wild bird, or to attempt to hunt, take, or kill any wild animal or wild bird, with the use of a firearm or bow and arrow, from, on, across, or over the roadway or right-of-way of any public road, street, or ~~highway.~~ highway, or to discharge a firearm or bow and arrow from, on, across, or over the roadway of any public road, street, or highway, or to possess a firearm or bow and arrow outside the passenger compartment of a vehicle while on the roadway or right-of-way."

SECTION 2. Sections 2 and 3 of S.L. 2001-367 are repealed.

SECTION 3. Section 4 of S.L. 2001-367 reads as rewritten:

"**SECTION 4.** It is unlawful to ~~hunt or to possess a firearm or bow and arrow~~ hunt, fish, or trap on the land of another without the written permission of the landowner or the landowner's lessee. The written permission shall contain complete contact information for the landowner or the landowner's lessee."

SECTION 4. This act applies only to Bertie County.

SECTION 5. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-314 **House Bill 1217**

AN ACT TO AUTHORIZE THE TOWN OF NAVASSA TO ENTER INTO AN AGREEMENT FOR PAYMENTS IN LIEU OF ANNEXATION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any applicable provision of the General Statutes or any other public or local law, the Town of Navassa is granted certain contract powers as follows:

(1) The Town of Navassa may, by agreement, provide that certain property described in the agreement as the "DAK Property" may not be involuntarily annexed by the Town prior to January 1, 2016, under the General Statutes as they now exist or may be subsequently amended. The Town of Navassa shall not seek to repeal this act upon its approval by the General Assembly.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this section to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the Town Council of the Town of Navassa during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

SECTION 2. The Town of Navassa may accept payments in lieu of taxes as consideration for the agreement discussed in Section 1 of this act.

SECTION 3. The Town of Navassa will accept the total amount of one million two hundred thousand dollars ($1,200,000) as payment in lieu of taxes on the DAK Property. DAK shall make biannual payments in the amount of sixty thousand dollars ($60,000). This is one hundred twenty thousand dollars ($120,000) per year during the course of the agreement.

SECTION 4. The agreement under Section 1 of this act shall apply to the DAK Property described as follows: a 615.7999-acre tract in an unincorporated area adjacent to the Town and identified as Brunswick County Parcel No. 01100001.

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-315 **Senate Bill 18**

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

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 892 of the 1985 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. – (a) Authorization and Scope. – The McDowell County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by ~~educational organizations, religious organizations, or summer camps.~~ nonprofit charitable, educational, or religious organizations when furnished in furtherance of the nonprofit purpose.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the McDowell County Board of Commissioners may levy an additional room occupancy tax of two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. McDowell County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

(c) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. ~~The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and Use of Tax Revenue. – McDowell County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the McDowell Tourism Development Authority. ~~The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.~~ The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in McDowell County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures. Tourism-related capital expenditures may include expenditures to purchase, renovate, maintain, or operate heritage tourism sites, such as the McDowell House, the Carson House, Fort Davidson, or Heritage Trails.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than January 1, 1987, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the McDowell County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

"Sec. 2. Tourism Development Authority. (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control ~~Act and shall be composed of the following nine members:~~Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-half of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-third of the members shall be individuals who are currently

active in the promotion of travel and tourism in the county. The Authority must be comprised of the following seven voting members and two nonvoting, ex officio members:

(1) The Executive Director of the McDowell Chamber of Commerce, who shall serve as an ex officio, nonvoting ~~member;~~ member.

(2) A county commissioner appointed by the McDowell County Board of Commissioners, who shall serve as an ex officio, nonvoting ~~member;~~ member.

(3) Four owners or operators of hotels, motels, or other taxable accommodations, of whom shall be appointed by the McDowell County Board of Commissioners, and two of whom shall be appointed by the McDowell Chamber of Commerce. Two of these appointees shall own or operate hotels, motels, or other accommodations with more than 50 rental units, and two shall own or operate hotels, motels, or other accommodations with 50 or fewer rental ~~units;~~ units.

(4) Three individuals ~~involved in tourist businesses who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other taxable accommodations,~~ who are currently active in the promotion of travel and tourism in the county, appointed as follows: two by the McDowell Chamber of Commerce and one by the McDowell County Board of Commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term which they are appointed to fill. ~~Except as provided in subsection (b) for initial members, members~~ Members shall serve three-year terms. ~~Members may serve no more than two consecutive terms.~~ The members shall elect a chairman from the membership of the Authority, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The Finance Officer for McDowell County shall be the ex officio finance officer of the Authority.

~~(b) Terms of Initial Members. The following initial members shall serve terms for other than three years:~~

~~(1) The appointed county commissioner and the member appointed by the board of commissioners under subdivision (a)(4) of this section, who shall serve one-year terms; and~~

~~(2) One of the members appointed under subdivision (a)(3) of this section by the Chamber, one of the members appointed under subdivision (a)(4) by the Chamber, and one of the members appointed under subdivision (a)(3) by the board of commissioners, as designated by the appointing body, who shall serve two-year terms.~~

(c) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in McDowell ~~County.~~County, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county. In performing its duties, the Authority may contract with any person, firm, or agency to advise and assist it and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed

upon a recommendation made by the Authority shall be hired and supervised by the Authority, which shall pay the salaries and expenses of this staff.

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

~~"Sec. 3. Review of Levy. Three years from the effective date of a tax levied under this act, the McDowell County Board of Commissioners shall conduct a thorough review of the tax and the function of the Tourism and Development Authority established under this act to determine the effectiveness of the levy and of the Authority.~~

"Sec. 4. This act is effective upon ratification."

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

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

SECTION 3. This act is effective when it becomes law. The McDowell County Board of Commissioners has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-316 **Senate Bill 19**

AN ACT TO MAKE A TECHNICAL CORRECTION TO THE DESCRIPTION OF THE BOUNDARY BETWEEN THE NASH-ROCKY MOUNT SCHOOL ADMINISTRATIVE UNIT AND THE EDGECOMBE COUNTY PUBLIC SCHOOL SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.1 of Chapter 391 of the 1991 Session Laws, as added by Section 4 of S.L. 2003-346, reads as rewritten:

"**Sec. 3.1.** ~~Except as follows, the county line between Nash and Edgecombe Counties shall be the boundary line between the Nash-Rocky Mount School Administrative Unit and the Edgecombe County Public School System (as renamed by S.L. 2003-125):~~

~~Beginning in southeast Rocky Mount the boundary between the two school units shall go east from the county line at the intersection of Kingston Avenue and Sutton Road, following Little Cokey Swamp Creek to Old Wilson Road, then north on Old Wilson Road to its intersection with Proctor Street, then diagonally northeast from the intersection of Old Wilson Road and Proctor Street across undeveloped land to the intersection of Cokey Road and Pitt Street, then northwest on Cokey Road to the Norfolk Railroad tracks, then east along the railroad tracks to Glendale Avenue, then north on South Glendale Avenue to its intersection with Melody Lane, then east on Melody Lane to its intersection with Ashland Avenue, then north on Ashland Avenue to its intersection with Rosewood Avenue, then east on Rosewood Avenue to its~~

~~intersection with Courtland Avenue, then north on Courtland Avenue to its intersection with Vernon Road, then east on Vernon Road to its intersection with Meadowbrook Road, then northwest on Meadowbrook Road to its intersection with Business US64 (North Raleigh Street), then west on Business US64 (North Raleigh Street) to its intersection with Stokes Street, then north on Stokes Street to its intersection with King Circle, then east and north on King Circle to its intersection with Barnes Street, then north on Barnes Street to its intersection with Charter Drive, then east on Charter Drive to its intersection with Anne Street, then north on Anne Street to its intersection with Cherry Street, then east on Cherry Street to its intersection with Harper Street, then north on Harper Street to its intersection with Leggett Road, then west and southwest on Leggett Road to the underpass at Bypass US64, then west on Bypass US64 to the Nash-Edgecombe County line.~~ The county line between Nash and Edgecombe Counties shall be the boundary between the Nash-Rocky Mount School District and the Edgecombe County School District, except for the following area of Rocky Mount, located in Edgecombe County, which shall be part of the Nash-Rocky Mount School District:

Beginning at a point in southern Rocky Mount, such point being more accurately described as the point where the county boundary, being the center of the CSX Railroad right-of-way intersects the centerline of the road named Kingston Avenue on the Nash County side, designated as SR 1727 and named Sutton Road on the Edgecombe County side, designated as SR 1157, said roads constituting a single roadway named and numbered differently in each county.

From said POINT OF BEGINNING, thence continuing eastward along the centerline of Sutton Road to the point where the run of Little Cokey Swamp Creek runs under the road, thence following the run of Little Cokey Swamp Creek to the point where the creek runs under Old Wilson Road, SR 1002, thence continuing northward along the centerline of Old Wilson Road to its intersection with Proctor Street (formerly Davis Street), thence following the centerline of Proctor Street eastward a distance of approximately 180 feet to a point where the western property line of Lot 7, Block A, of the subdivision as shown on "Map Showing Subdivision of the W-R-Proctor Property, Located in South Rocky Mount, Edgecomb (sic) County NC" dated April 1923, on record in the Edgecombe County Register of Deeds filed in Map Book 2, Page 44, the point being where said western property line of Lot 7, Block A, if extended in a southerly direction would intersect the centerline of Proctor Street (shown on said map as Davis Street). Thence in a northerly direction following said line along the western boundary of Lot 7, Block A and the eastern boundary of Lots 1-6 of Block A to a point, being the northwest corner of Lot 7, Block A and the northeast corner of Lot 1, Block A of said subdivision, cornering and following the northern boundary of said subdivision in an easterly direction to an iron marking the northeast corner of Lot 1, Block G, of the same subdivision.

From this description, all of the subdivision shown in Map Book 2, Page 44 Edgecombe County Public Registry shall be in the Edgecombe County School District with the exception of Lots 1-6 of Block A, with addresses in the 1500-block of Old Wilson Road, which shall be in the Nash-Rocky Mount School District.

From said northeast corner of Lot 1, Block G, as previously noted, thence cornering northwesterly along the eastern boundary of that property now or formerly belonging to the Trustees of the East Rocky Mount Church of God as described in Deed Book 840, Page 355, Edgecombe County Public Registry, to the southeast corner of Lot 7 as shown on "Map of Aqua Court" dated February 29, 1972, on record in the Edgecombe

County Register of Deeds filed in Map Book 16, Page 36. Thence continuing northwesterly along the eastern line of Lot 7 to a point, being the western corner of Lot 3 and southern corner of Lot 2, as shown on the 1909 Survey of J.J. Wells entitled "Property of Hargrove Heirs", on record in the Edgecombe County Register of Deeds filed in Map Book 3, Page 492, thence northeasterly along the common line between Lots 2 and 3 and continuing along that line, if extended, to the centerline of Cokey Road (SR 1164), cornering and following the centerline of Cokey Road to its intersection with the CSX Railroad Line running toward Tarboro.

From this description, all of the properties addressed on the even-numbered side of Cokey Road in the 1100 and 1200 blocks are in the Nash-Rocky Mount School District and those properties addressed on the odd-numbered side of Cokey Road, plus all properties in the 1300 block and higher are in the Edgecombe County School District.

From said point where the centerline of Cokey Road intersects the centerline of the CSX Railroad, thence following the centerline of the CSX Railroad, crossing Pitt St., S. Fairview Road, and S. Glendale Drive, to a point where the eastern boundary of the subdivision "Kenwood Park Section V" on record in the Edgecombe County Register of Deeds filed in Plat Cabinet 2, Slides 83a-b, if extended southward, would intersect the centerline of the CSX Railroad, cornering, thence along the eastern boundary of said subdivision, across Eastern Avenue and continuing along the eastern boundary of an earlier section of Kenwood Park dated April 7, 1956, on record in the Edgecombe County Register of Deeds filed in Map Book 11, Page 5, to a point in the eastern boundary of Lot 6, Block F, Kenwood Park, also being the southwest corner of a lot described in Deed Book 1114, Page 825, Edgecombe County Public Registry, addressed as 1729 Rosewood Avenue. Thence eastward along the southern boundary of 1729 Rosewood Avenue, described in the aforementioned deed, and the southern boundary of 1737 Rosewood Avenue as described in Deed Book 994, Page 423 ECPR, and across Dreaver Street to the southwest corner of Lot 1, Block A of "Property Developed by D.T. Powell & Sons" subdivision according to a map dated November 30,1955 by Fred Dasher, on record in the Edgecombe County Register of Deeds filed in Map Book 10, Page 59. Thence eastward along the southern boundary of said subdivision to the centerline of Courtland Avenue, cornering and following the centerline of Courtland Avenue to its intersection with the centerline of Vernon Road, turning east on Vernon and following the centerline of Vernon Road to its intersection with Meadowbrook Road. From said intersection of Vernon Road and Meadowbrook Road, continuing in a northwesterly direction along the centerline of Meadowbrook Road (SR 1232) to its intersection with North Raleigh St. (US Highway 64 Business).

From this description, all properties on the north side of Vernon Road terminating with its intersection with Meadowbrook Road are in the Nash-Rocky Mount School District and all properties on the south side of Vernon Road between its intersection with Courtland Avenue and its intersection with Meadowbrook Road are in the Edgecombe County School District. All addresses on the east side of Meadowbrook in the 1900 block or greater of Meadowbrook Road, plus the properties addressed in the 2000 block or greater of each road crossing Courtland Avenue and located south of Vernon Road are in the Edgecombe County School District.

From the intersection of Meadowbrook Road and North Raleigh St., thence along the centerline of North Raleigh St. (US Highway 64 Business) to the western line, if extended, of the property known as 1740 N. Raleigh St., now or formerly belonging to Showers of Blessing Christian Center as described in Deed Book 1148, page 743, ECPR, cornering and following the western boundary of 1740 N. Raleigh St. in a

northerly direction, that same line after a distance also being the eastern boundary of the Mayview Subdivision, as described in Map Book 13, Page 44 and Map Book 14, Page 66, ECPR to Virginia Street, thence continuing northerly along the eastern boundary of "Map of Property of Edgecombe Storage Corp. as described in Map Book 12, Page 65 ECPR, thence continuing in a northerly direction along the eastern boundary of various sections of the Hillsdale Subdivision as shown in Map Book 5, Page 16, Map Book 10, Page 11, and Map Book 12, Page 83 ECPR, but stopping at the northeast corner of lot 395, Hillsdale, 4th Addition (Map Book 12, Page 83), and cornering, thence heading in a westerly direction along the northern line of lot 395, also being the southern line of lots 393 and 394 and continuing along said line to the centerline of Harper Street, cornering thence in a northerly direction along the centerline of Harper Street to its intersection with the centerline of Leggett Road (SR 1243).

From the intersection of Harper Street and Leggett Road, thence going in a southeasterly direction along the centerline of Leggett Road (SR 1243) to a point midway between the bridges of the eastbound and westbound lanes of the US Highway 64 Freeway, cornering, thence in a westerly direction along the center of the US Highway 64 Freeway median to the Nash County Line (being the center of the CSX Railroad Right-of-Way), cornering, thence in a southerly direction along the Edgecombe-Nash County Line to the POINT OF BEGINNING."

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

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-317 **Senate Bill 154**

AN ACT TO AUTHORIZE THE TOWN OF DALLAS TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX**.**

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Aldermen of the Town of Dallas may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – The Town of Dallas shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Dallas Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Dallas and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance

officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of Dallas Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Aldermen adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Dallas Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Aldermen shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Board of Aldermen on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Aldermen may require.

SECTION 3. Administrative provisions. – G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Mooresville, North Topsail Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

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

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-318 **Senate Bill 282**

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

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Chapter 642 of the 1993 Session Laws reads as rewritten:

"PART 1. CHATHAM OCCUPANCY TAX.

"**Section 1**. Occupancy ~~tax.~~Tax. (a) Authorization and ~~**scope.**~~ Scope. – The Chatham County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Chatham County Board of Commissioners may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this section and the use of tax revenue from a tax levied under this subsection shall be in accordance with this Part. Chatham County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for State sales and use tax.~~

(c) Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this Part.~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or~~

~~association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Chatham County Board of Commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(e) Distribution and Use of ~~tax revenue.~~ Tax Revenue. – Chatham County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Chatham County Tourism Development Authority. The Authority shall use at least two-thirds of the ~~net proceeds of the tax levied under this section~~ funds remitted to it under this subsection to promote travel and tourism in Chatham County and shall use the remainder for tourism-related expenditures. The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed ~~seven percent (7%) of the gross proceeds.~~three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures ~~that~~ that, in the judgment of the county Tourism Development Authority, are designed to increase the use of lodging ~~facilities~~ facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.~~expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum; and other expenditures that, in the judgment of the board of commissioners, will facilitate and promote tourism.~~

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Chatham County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

"**Section 1.1.** Chatham County Tourism Development Authority. – (a) Appointment and Membership. – When the Chatham County Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Chatham County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require."

SECTION 2. G.S. 105-153A-155(g) reads as rewritten:

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

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

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-319 **House Bill 398**

AN ACT PROVIDING THE TOWN OF SPRING LAKE AND THE CITY OF WINSTON-SALEM WITH ADDITIONAL OPTIONS FOR SERVICE OF NOTICE OF VIOLATION OF THE CITY'S GARBAGE AND TRASH ORDINANCE AND THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-120 reads as rewritten:

"**SECTION 1.** A municipality may notify a chronic violator of the municipality's garbage and trash ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality may, without further notice in the calendar year in which the notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the violator's property in accordance with

G.S. 160A-193. The initial annual notice shall be served by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. Under this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave a notice of violation at least three times under any provision of the garbage and trash ordinance."

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

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

SECTION 3. This act applies to the Town of Spring Lake and the City of Winston-Salem only.

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

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-320 **House Bill 1017**

AN ACT TO MAKE IT UNLAWFUL TO TAKE MENHADEN OR ATLANTIC THREAD HERRING WITH A PURSE SEINE NET WITHIN THREE NAUTICAL MILES OF THE SHORELINE OF BRUNSWICK COUNTY FROM MAY 1 THROUGH OCTOBER 31 OF EACH YEAR.

The General Assembly of North Carolina enacts:

SECTION 1.(a) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from May 1 through October 31 of each year within three nautical miles of the Atlantic Ocean shoreline in that area east of a line beginning at a point onshore at the border between North Carolina and South Carolina at 33° 51.0667'N – 78° 32.5833'W; running southeasterly three nautical miles to a point offshore at 33° 48.8342'N – 78° 29.8494'W; and south of a line beginning at a point onshore at the border between Brunswick County and New Hanover County at 33° 55.8833'N – 77° 56.2000'W; then running southeasterly three nautical miles to a point offshore at 33° 54.5735'N – 77° 52.7184'W.

SECTION 1.(b) Violation of subsection (a) of this section is a Class A1 misdemeanor.

SECTION 2. This act is effective 30 days after it becomes law and applies to offenses committed on or after the date it becomes effective.

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-321 **House Bill 1213**

AN ACT GRANTING AUTHORITY TO THE TOWN OF CARY TO REQUIRE DEVELOPERS OF MULTIFAMILY UNITS TO PROVIDE FUNDS FOR RECREATIONAL LAND TO SERVE MULTIFAMILY DEVELOPMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. The town of Cary may, by ordinance, provide that a developer of multifamily units that are not subject to the subdivision ordinance shall provide funds to the town whereby the town may acquire recreational land or areas to serve the multifamily development, including the purchase of land that may be used to serve more than one multifamily development or residential subdivision within the immediate area. All funds received by the town pursuant to this section may be combined with funds received from residential subdivisions under G.S. 160A-372, and shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this section shall be based on a flat fee per unit. The ordinance may allow a combination or partial payment of funds and partial dedication of land when the town council determines that this combination is in the best interests of the citizens of the area to be served.

SECTION 2. This act applies to the town of Cary only.

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

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-322 **House Bill 749**

AN ACT TO IMPLEMENT EFFICIENCIES WITHIN THE UNIVERSITY SYSTEM AND STATE GOVERNMENT AS RECOMMENDED BY THE PRESIDENT'S ADVISORY COMMITTEE ON EFFICIENCY AND EFFECTIVENESS (PACE).

The General Assembly of North Carolina enacts:

PART I. INCREASE INFORMAL LIMIT FOR SMALL CONSTRUCTION

SECTION 1. G.S. 133-1.1(a) reads as rewritten:

"(a) In the interest of public health, safety and economy, every officer, board, department, or commission charged with the duty of approving plans and specifications or awarding or entering into contracts involving the expenditure of public funds in excess of:

(1) Three hundred thousand dollars ($300,000) for the repair of public buildings where such repair does not include major structural change in framing or foundation support systems, or five hundred thousand dollars ($500,000) for the repair of public buildings by The University of North Carolina or its constituent institutions where such repair does

not include major structural change in framing or foundation support systems,

(1a) One hundred thousand dollars ($100,000) for the repair of public buildings affecting life safety systems,

(2) One hundred thirty-five thousand dollars ($135,000) for the repair of public buildings where such repair includes major structural change in framing or foundation support systems, or

(3) One hundred thirty-five thousand dollars ($135,000) for the construction of, or additions to, public buildings or State-owned and operated utilities,

shall require that such plans and specifications be prepared by a registered architect, in accordance with the provisions of Chapter 83A of the General Statutes, or by a registered engineer, in accordance with the provisions of Chapter 89C of the General Statutes, or by both architect and engineer, particularly qualified by training and experience for the type of work involved, and that the North Carolina seal of such architect or engineer together with the name and address of such architect or engineer, or both, be placed on all these plans and specifications."

SECTION 2. G.S. 143-64.34(b) reads as rewritten:

"(b) A capital improvement project of The University of North Carolina under G.S. 116-31.11 where the estimated expenditure of public money is less than ~~three hundred thousand dollars ($300,000)~~ five hundred thousand dollars ($500,000) is exempt from this Article if all of the following apply:

(1) The architectural, engineering, or surveying services to be rendered are under an open-end design agreement.

(2) The open-end design agreement has been publicly announced.

(3) The open-end design agreement complies with procedures adopted by the University and approved by the State Building Commission under G.S. 116-31.11(a)(3)."

SECTION 3. G. S. 143-128(g) reads as rewritten:

"(g) Exceptions. – This section shall not apply to:

(1) The purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work which must be performed at the construction site.

(2) The erection, construction, alteration, or repair of a building when the cost thereof is three hundred thousand dollars ($300,000) or less.

(3) The erection, construction, alteration, or repair of a building by The University of North Carolina or its constituent institutions when the cost thereof is five hundred thousand dollars ($500,000) or less.

Notwithstanding the other provisions of this subsection, subsection (f1) of this section shall apply to any erection, construction, alteration, or repair of a building by a public entity."

SECTION 4. G.S. 143-129(a) reads as rewritten:

"(a) Bidding Required. – No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than three hundred thousand dollars ($300,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than ninety thousand dollars ($90,000) may be performed, nor may any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any political subdivision of the State, unless the provisions of this

section are complied ~~with.~~with; provided that The University of North Carolina and its constituent institutions may award contracts for construction or repair work that requires an estimated expenditure of less than five hundred thousand dollars ($500,000) without complying with the provisions of this section.

For purchases of apparatus, supplies, materials, or equipment, the governing body of any political subdivision of the State may, subject to any restriction as to dollar amount, or other conditions that the governing body elects to impose, delegate to the manager, school superintendent, chief purchasing official, or other employee the authority to award contracts, reject bids, or readvertise to receive bids on behalf of the unit. Any person to whom authority is delegated under this subsection shall comply with the requirements of this Article that would otherwise apply to the governing body."

PART II. INCREASE FORCE ACCOUNT LIMITS

SECTION 5. G.S. 143-135 reads as rewritten:

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

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ~~($50,000).~~($50,000); provided that, for The University of North Carolina and its constituent institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university and (ii) when either the total cost of the project, including, without limitation, all direct and indirect costs of labor, services, materials, supplies, and equipment, does not exceed two hundred thousand dollars ($200,000) or the total cost of labor on the project does not exceed one hundred thousand dollars ($100,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

PART III. REPEAL AND MODIFY CERTAIN REPORTING REQUIREMENTS

SECTION 6. G. S. 116-30.6 is repealed.

SECTION 7. G.S. 143-64.70(a) reads as rewritten:

"(a) By January 1 of each year, each State department, agency, and institution shall make a detailed written report to the Office of State Budget and Management and the Office of State Personnel on its utilization of personal services contracts that have an annual expenditure greater than ~~five thousand dollars ($5,000).~~ twenty-five thousand dollars ($25,000). The report by each State department, agency, and institution shall include the following:

(1) ~~The total number of personal services contractors in service during the reporting period.~~ Identification of the department and employee responsible for oversight of the performance of the contract.

(2) ~~The type, duration, status, and cost of each contract.~~ Vendor or contractor name, object of expenditure description, contract award amount, purchase order or contract number, purchase order start and end date, source of funds, and amount disbursed during the fiscal year.

~~(3) The number of contractors utilized per contract.~~

~~(4) A description of the functions and projects requiring contractual services.~~

~~(5) The number of contractors for each function or project.~~

~~(6) Identification of the State employee responsible for oversight of the performance of each contract and the number of contractors reporting to each contract manager or supervisor.~~

~~(7) The budget code, fund number, and expenditure account number from which the contract funds were disbursed.~~"

PART IV. ELIMINATE REQUIREMENT FOR PRIOR APPROVAL OF AN EMPLOYEE'S HOME AS THE EMPLOYEE'S DUTY STATION

SECTION 8. G.S. 138-6(a)(1) reads as rewritten:

"(a) Travel on official business by the officers and employees of State departments, institutions and agencies which operate from funds deposited with the State Treasurer shall be reimbursed at the following rates:

(1) For transportation by privately owned automobile, the business standard mileage rate set by the Internal Revenue Service per mile of travel and the actual cost of tolls paid. Any other law which sets a mileage rate by referring to the rate set herein, instead establishes a rate of twenty-five cents (25¢) per mile. No reimbursement shall be made for the use of a personal car in commuting from an employee's home to his duty station in connection with regularly scheduled work hours. ~~Any designation of an employee's home as his duty station by a department head shall require prior approval by the Office of State Budget and Management on an annual basis.~~"

PART V. CONSTRUCTION AND LEASING

SECTION 9. Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-31.12. Acquisition of real property by lease.**

Notwithstanding G.S. 143-341(4), the Board of Governors may authorize the constituent institutions and the General Administration to acquire real property by lease if the lease is for a term of not more than 10 years. The Board of Governors shall establish a policy for acquiring an interest in real property for the use of The University of North Carolina and its constituent institutions by lease. This policy may delegate authorization of the acquisition of real property by lease to the boards of trustees of the constituent institutions or to the President of The University of North Carolina. The Board of Governors shall submit all initial policies adopted pursuant to this section to the State Property Office for review prior to adoption by the Board. Any subsequent changes to these policies adopted by the Board of Governors shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the President of The University of North Carolina. After the acquisition of an interest in real property by lease, The University of North Carolina shall promptly

file a report concerning the acquisition to the Secretary of Administration. Acquisitions of an interest in real property by lease pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or to the provisions of Article 6 of Chapter 146 of the General Statutes."

SECTION 10. G.S. 120-76.1(b) reads as rewritten:

"(b) Any agency, board, commission, or other entity required under G.S. 120-76(8) or any other provision of law to consult with the Commission prior to taking an action shall submit a detailed report of the action under consideration to the Chairs of the Commission, the Commission Assistant, and the Fiscal Research Division of the General Assembly. If the Commission does not hold a meeting to hear the consultation within 90 days of receiving the submission of the detailed report, the consultation requirement is satisfied. With regard to capital improvement projects of The University of North Carolina, if the Commission does not hold a meeting to hear the consultation within 30 days of receiving the submission of the detailed report, the consultation requirement of G.S. 120-76(8)e. is satisfied."

SECTION 11. G.S. 146-22 reads as rewritten:

"§ **146-22. All acquisitions to be made by Department of Administration.**

Every acquisition of land on behalf of the State or any State agency, whether by purchase, condemnation, lease, or rental, shall be made by the Department of Administration and approved by the Governor and Council of State; provided that if the proposed acquisition is a purchase of land with an appraised value of at least twenty-five thousand dollars ($25,000), and the acquisition is for other than a transportation purpose, the acquisition may only be made after written notice to the Joint Legislative Commission on Governmental Operations given to the Chairs of the Commission at least 30 days prior to the acquisition, who shall forward a copy of the notice to the members of the Commission within three days of their receipt of the notice, and provided further, that acquisitions on behalf of the University of North Carolina Health Care System shall be made in accordance with G.S. 116-37(i), acquisitions on behalf of the University of North Carolina Hospitals at Chapel Hill shall be made in accordance with G.S. 116-37(a)(4), acquisitions on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill shall be made in accordance with G.S. 116-37(a)(4), ~~and~~ acquisitions on behalf of the Medical Faculty Practice Plan of the East Carolina University School of Medicine shall be made in accordance with ~~G.S. 116-40.6(d).~~ G.S. 116-40.6(d), and acquisitions by lease on behalf of The University of North Carolina shall be made in accordance with G.S. 116-31.12. In determining whether the appraised value is at least twenty-five thousand dollars ($25,000), the value of the property in fee simple shall be used. The State may not purchase land as a tenant-in-common without consultation with the Joint Legislative Commission on Governmental Operations if the appraised value of the property in fee simple is at least twenty-five thousand dollars ($25,000)."

SECTION 12. The University of North Carolina shall report to the Joint Legislative Commission on Governmental Operations by July 1, 2008, on the implementation of Sections 10 through 11 of this act.

SECTION 13. This act is effective when it becomes law. Sections 1 through 4 of this act apply to construction projects for which bids or proposals are solicited on or after that date. Section 5 of this act applies to construction or repair work commenced on or after that date.

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Became law upon approval of the Governor at 6:18 p.m. on the 30th day of July, 2007.

Session Law 2007-323 **House Bill 1473**

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

SECTION 1.1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2007."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 2009, according to the following schedule:

Current Operations – General Fund	**2007-2008**	**2008-2009**
EDUCATION		
Community Colleges System Office	$ 938,106,160	$ 899,643,003
Department of Public Instruction	7,714,429,569	7,708,315,285
University of North Carolina – Board of Governors		
Appalachian State University	121,866,775	123,484,299
East Carolina University		
Academic Affairs	200,929,741	207,798,168
Health Affairs	48,700,539	48,649,036
Elizabeth City State University	31,770,080	32,587,386
Fayetteville State University	53,131,616	54,059,698
North Carolina Agricultural and		

Technical State University	91,017,204	91,671,185
North Carolina Central University	76,599,430	78,129,122
North Carolina School of the Arts	24,650,862	24,042,061
North Carolina State University		
Academic Affairs	349,253,626	358,675,869
Agricultural Extension	42,241,968	42,126,187
Agricultural Research	53,406,637	52,144,009
University of North Carolina at Asheville	33,648,196	34,151,586
University of North Carolina at Chapel Hill		
Academic Affairs	269,229,699	275,856,577
Health Affairs	188,883,060	194,407,363
Area Health Education Centers	47,818,875	47,818,875
University of North Carolina at Charlotte	161,588,211	167,100,852
University of North Carolina at Greensboro	145,859,443	149,948,462
University of North Carolina at Pembroke	53,241,514	54,967,129
University of North Carolina at Wilmington	94,683,871	97,233,616
Western Carolina University	84,117,070	85,393,621
Winston-Salem State University	66,379,070	69,552,386
General Administration	42,489,469	42,647,024
University Institutional Programs	132,601,272	111,329,634
Related Educational Programs	149,629,645	149,933,562
North Carolina School of Science and Mathematics	16,859,174	17,065,422
UNC Hospitals at Chapel Hill	45,673,970	45,673,970
Total University of North Carolina – Board of Governors	$ 2,626,271,017	$ 2,656,447,099

HEALTH AND HUMAN SERVICES

Department of Health and Human Services		
Office of the Secretary	70,883,013	62,592,178
Division of Aging	35,943,589	35,745,179
Division of Blind Services/Deaf/HH	11,287,540	11,434,643
Division of Child Development	306,744,018	310,984,207
Division of Education Services	38,794,264	38,855,457
Division of Health Service Regulation	20,148,484	20,656,228
Division of Medical Assistance	2,920,359,272	3,389,993,470
Division of Mental Health	713,081,821	721,639,723
NC Health Choice	59,391,155	59,391,155
Division of Public Health	192,495,942	182,162,710
Division of Social Services	216,917,502	221,227,038
Division of Vocation Rehabilitation	45,054,797	45,518,365
Total Health and Human Services	$ 4,631,101,397	$ 5,100,200,353

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	$ 74,381,701	$ 60,699,001
Department of Commerce		
Commerce	63,299,155	40,289,341

Commerce State-Aid	35,345,235	21,361,485
NC Biotechnology Center	15,583,395	15,583,395
Rural Economic Development Center	143,802,607	24,302,607
Department of Environment and Natural Resources	205,154,162	192,815,663
DENR Clean Water Management Trust Fund	100,000,000	100,000,000
Department of Labor	16,594,758	16,594,951
JUSTICE AND PUBLIC SAFETY		
Department of Correction	$ 1,214,065,645	$ 1,226,627,581
Department of Crime Control and Public Safety	51,501,337	41,489,037
Judicial Department	432,747,865	452,389,917
Judicial Department – Indigent Defense	106,540,251	115,991,348
Department of Justice	94,861,199	92,171,670
Department of Juvenile Justice and Delinquency Prevention	158,002,069	139,556,104
GENERAL GOVERNMENT		
Department of Administration	74,441,729	71,126,817
Office of Administrative Hearings	3,691,458	3,521,735
Department of State Auditor	12,853,026	12,746,479
Office of State Controller	20,710,191	20,727,698
Department of Cultural Resources		
Cultural Resources	74,370,782	71,881,424
Roanoke Island Commission	2,020,023	2,020,023
State Board of Elections	6,188,472	6,046,868
General Assembly	54,538,665	55,740,786
Office of the Governor		
Office of the Governor	6,262,319	6,300,587
Office of State Budget and Management	5,870,735	5,877,440
OSBM – Reserve for Special Appropriations	6,971,446	5,621,446
Housing Finance Agency	18,608,417	9,608,417

Department of Insurance		
Insurance	30,922,133	30,936,704
Insurance – Volunteer Safety Workers' Compensation	4,500,000	4,500,000
Office of Lieutenant Governor	914,122	915,109
Department of Revenue	83,949,579	85,163,328
Department of Secretary of State	11,476,990	10,743,041
Department of State Treasurer		
State Treasurer	9,329,130	9,326,190
State Treasurer – Retirement for Fire and Rescue Squad Workers	9,458,957	9,458,957
TRANSPORTATION		
Department of Transportation	0	0
RESERVES, ADJUSTMENTS AND DEBT SERVICE		
Reserve for Compensation Increases	490,324,192	488,655,673
Additional Salary Increase for Teacher Assistants	1,150,240	1,150,240
Additional Step to Teacher Schedule	9,862,065	9,862,065
Additional Step to Judicial Longevity	566,643	566,643
Transfer Public Defenders to Judicial Retirement	573,000	573,000
Salary Adjustment Fund: 2007-2009 Biennium	23,688,000	23,688,000
Reserve for Teachers' and State Employees' Retirement Contribution	35,705,000	35,705,000
Reserve for Retirement System Payback	45,000,000	0
Reserve for State Health Plan	110,184,490	122,890,207
Reserve for Eliminated Positions	(10,038,466)	(10,038,466)
Contingency and Emergency Fund	5,000,000	5,000,000
Information Technology Fund	9,140,000	7,840,000
BEACON HR/Payroll	20,000,000	0

Integrated Tax Administration System Replacement	5,000,000	0
Reserve for Job Development Investment Grants (JDIG)	12,400,000	12,400,000
Debt Service		
General Debt Service	608,559,372	659,016,907
Federal Reimbursement	1,616,380	1,616,380
TOTAL CURRENT OPERATIONS – GENERAL FUND	**$ 20,427,596,612**	**$ 20,685,666,538**

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in developing the 2007-2009 biennial budget is shown below:

	FY 2007-2008	FY 2008-2009
Unappropriated Balance Remaining from Previous Year	$ 0	$ 271,704,098
Projected Reversions FY 2006-2007	125,000,000	0
Projected Overcollections FY 2006-2007	1,368,100,000	0
Less Earmarkings of Year End Fund Balance		0
Savings Reserve Account	(175,000,000)	0
Repairs and Renovations	(145,000,000)	0
Beginning Unreserved Fund Balance	**$ 1,173,100,000**	**$ 271,704,098**
Revenues Based on Existing Tax Structure	**$ 18,643,100,000**	**$ 19,670,200,000**
Nontax Revenues		
Investment Income	212,000,000	222,200,000
Judicial Fees	172,500,000	176,600,000
Disproportionate Share	100,000,000	100,000,000
Insurance	60,200,000	62,800,000
Other Nontax Revenues	139,300,000	153,400,000
Highway Trust Fund/Use Tax Reimbursement Transfer	172,500,000	172,500,000
Highway Fund Transfer	18,190,000	17,610,000
Subtotal Nontax Revenues	**$ 874,690,000**	**$ 905,110,000**
Total General Fund Availability	**$ 20,690,890,000**	**$ 20,845,814,098**
Adjustments to Availability: 2007 Session		
Maintain State Sales & Use Tax Rate at 4.25%	258,400,000	285,900,000
State Takeback of Local Sales Tax	0	184,200,000
State Hold Harmless for Counties	(19,300,000)	(3,700,000)
Corporate Tax Earmarking Adjustments	44,700,000	0
Earned Income Tax Credit	0	(48,300,000)
IRC Conformity	(56,900,000)	(49,100,000)
Health & Human Services/ Health Service Regulation Fees	1,705,501	1,642,407
Secretary of State Corporate Annual Report Fees	563,016	563,016

Long-term Care Insurance Tax Credit	(7,000,000)	(7,200,000)
Adoption Tax Credit	(3,000,000)	(3,000,000)
Enhance 529 Plan Deduction (House Bill 1016)	(200,000)	(200,000)
Privilege Tax on Software Publishers	(2,800,000)	(4,000,000)
Research & Development Credit Enhancement	(400,000)	(800,000)
Modify Tax on Property Coverage Contracts	(1,500,000)	(3,100,000)
Reserve for Manufacturers' and Farmers Energy Tax Provisions	(10,000,000)	(20,000,000)
Nonprofit Energy Tax Credit	(500,000)	(500,000)
Credit for Constructing Renewable Fuels Facilities	0	(2,300,000)
Reserve for Work Opportunity Tax Credit	(3,000,000)	(3,000,000)
Sales Tax Refund for Aircraft Part Mfgrs.	(800,000)	(800,000)
Sales Tax Refund – Research Supplies	0	(2,600,000)
Adjust Sales Tax Holiday	0	(600,000)
Sales Tax Exemption for Bakery Thrift Store	(100,000)	(100,000)
Railroad Incentives	(200,000)	(300,000)
Firefighter/EMS Income Tax Deduction	(1,000,000)	(1,000,000)
Adjust Transfer from Insurance Regulatory Fund	80,274	56,274
Adjust Transfer from Treasurer's Office	110,758	98,758
Transfer from Closed Capital Account	3,506,143	0
Judicial Fees	35,586,118	38,821,220
Subtotal Adjustments to Availability:		
2007 Session	**$ 237,951,810**	**$ 360,681,675**
Revised General Fund Availability	**$ 20,928,841,810**	**$ 21,206,495,773**
Less: General Fund Appropriations	**20,658,337,712**	**20,685,666,538**
Unappropriated Balance Remaining	**$ 270,504,098**	**$ 520,829,235**

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer one hundred forty-five million dollars ($145,000,000) from the unreserved fund balance to the Repairs and Renovations Reserve Account on June 30, 2007. This subsection becomes effective June 30, 2007.

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2007-2008 fiscal year to be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(c1) Notwithstanding G.S. 143-15.2, 143-15.3, and 143C-4-2, the State Controller shall transfer only one hundred seventy-five million dollars ($175,000,000) from the unreserved fund balance to the Savings Reserve Account on June 30, 2007. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution. This subsection becomes effective June 30, 2007.

SECTION 2.2.(d) Notwithstanding the provisions of G.S. 105-187.9(b)(1), the sum to be transferred under that subdivision for the 2007-2008 fiscal year is one hundred seventy million dollars ($170,000,000) and for the 2008-2009 fiscal year is one hundred seventy million dollars ($170,000,000).

SECTION 2.2.(e) Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred under that subdivision for the 2007-2008 fiscal year is two million five hundred thousand dollars ($2,500,000) and for the 2008-2009 fiscal year is two million five hundred thousand dollars ($2,500,000).

SECTION 2.2.(f) The appropriation made in this act to the Clean Water Management Trust Fund in the amount of one hundred million dollars ($100,000,000) is made pursuant to G.S. 113A-253.1 and is not in addition to the statutory appropriation made in that section.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2009, according to the following schedule:

Current Operations – Highway Fund	**2007-2008**	**2008-2009**
Department of Transportation		
Administration	$ 84,037,661	$ 83,204,187
Division of Highways		
Administration	32,651,442	32,703,136
Construction	165,895,465	150,173,949
Maintenance	905,285,444	909,599,625
Planning and Research	4,700,000	4,700,000
OSHA Program	425,000	425,000
Ferry Operations	31,313,921	31,313,921
State Aid		
Municipalities	93,046,035	93,073,949
Public Transportation	73,466,447	73,144,229
Airports	21,860,122	19,407,815
Railroads	21,951,153	20,330,883
Governor's Highway Safety	334,314	335,449
Division of Motor Vehicles	103,676,924	100,568,704
Transfers, Other State Agencies, And Reserves	293,466,072	292,009,153
TOTAL	**$1,832,110,000**	**$1,810,990,000**

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2007-2009 biennial budget is shown below:

Highway Fund Availability Statement	**2007-2008**	**2008-2009**
Unappropriated Balance From Previous Year	$ 0	$ 0
Beginning Credit Balance	30,000,000	0
Estimated Revenue	1,802,110,000	1,810,990,000
Total Highway Fund Availability	**$ 1,832,110,000**	**$ 1,810,990,000**
Unappropriated Balance	**$ 0**	**$ 0**

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the biennium ending June 30, 2009, according to the following schedule:

Current Operations – Highway Trust Fund	**2007-2008**	**2008-2009**
Intrastate System	$ 539,414,383	$ 544,982,323
Urban Loops	218,116,712	220,368,154
Aid to Municipalities	56,597,151	57,181,357
Secondary Roads	94,266,888	95,790,568
Program Administration	47,341,560	47,782,560
Transfer to General Fund	172,543,306	172,675,038
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	**$ 1,128,280,000**	**$ 1,138,780,000**

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. The Highway Trust Fund availability used in developing the 2007-2009 biennial budget is shown below:

Total Highway Trust Fund Availability	**$ 1,128,280,000**	**$ 1,138,780,000**

PART V. OTHER AVAILABILITY AND APPROPRIATIONS

CIVIL PENALTIES AND FORFEITURE FUND AVAILABILITY AND APPROPRIATION

SECTION 5.1.(a) Availability. – The availability used to support appropriations made in this act from the Civil Penalty and Forfeiture Fund is based upon estimated collections of fines and forfeitures from the agencies and in the amounts listed below:

	FY 2007-2008	FY 2008-2009
Department of Revenue	$63,000,000	$63,000,000
Department of Transportation	$15,000,000	$15,000,000
Employment Security Commission	$3,000,000	$3,000,000
Department of Insurance	$1,000,000	$1,000,000
University of North Carolina	$3,500,000	$3,500,000
Other Agencies	$10,000,000	$10,000,000
Total Funds Available	$95,500,000	$95,500,000

SECTION 5.1.(b) Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2009, as follows:

	FY 2007-2008	FY 2008-2009
School Technology Fund	$18,000,000	$18,000,000
State Public School Fund	$77,500,000	$77,500,000
Total Appropriation	$95,500,000	$95,500,000

EDUCATION LOTTERY

SECTION 5.2.(a) Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of three hundred fifty million dollars ($350,000,000) for the 2007-2008 fiscal year.

SECTION 5.2.(b) The appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2007-2008 fiscal year are as follows:

(1)	Class Size Reduction	$ 90,364,291
(2)	Prekindergarten Program	84,635,709
(3)	Public School Building Capital Fund	140,000,000
(4)	Scholarships for Needy Students	35,000,000
	Total Appropriation	$ 350,000,000

SECTION 5.2.(c) G.S. 18C-162 reads as rewritten:

"§ **18C-162. Allocation of revenues.**

(a) ~~To the extent practicable, the~~ The Commission shall allocate revenues to the North Carolina State Lottery Fund in ~~the following manner:~~ order to increase and maximize the available revenues for education purposes, and to the extent practicable, shall adhere to the following guidelines:

(1) At least fifty percent (50%) of the total annual revenues, as described in this Chapter, shall be returned to the public in the form of prizes.

(2) At least thirty-five percent (35%) of the total annual revenues, as described in this Chapter, shall be transferred as provided in G.S. 18C-164.

(3) No more than eight percent (8%) of the total annual revenues, as described in this Chapter, shall be allocated for payment of expenses of the Lottery. Advertising expenses shall not exceed one percent (1%) of the total annual revenues.

(4) No more than seven percent (7%) of the total annual revenues, as described in this Chapter, shall be allocated for compensation paid to lottery game retailers.

(b) To the extent that the expenses of the Commission are less than eight percent (8%) of total annual revenues, the Commission may allocate any surplus funds:

(1) To increase prize payments; or

(2) To the benefit of the public purposes as described in this Chapter.

(c) Unclaimed prize money shall be held separate and apart from the other revenues and allocated as follows:

(1) Fifty percent (50%) to enhance prizes under subdivision (a)(1) of this section.

(2) Fifty percent (50%) to the Education Lottery Fund to be allocated in accordance with G.S. 18C-164(c)."

SECTION 5.2.(d) This section becomes effective June 30, 2007.

INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATION

SECTION 5.3.(a) The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2007-2008	**FY 2008-2009**
Receipts from Information Technology Enterprise Fee	$9,800,000	$9,800,000
BEACON/Data Integration Funds	$5,000,000	$5,000,000
Interest Income	$100,000	$100,000
IT Fund Balance June 30	$600,000	$690,000
Appropriation from General Fund	$4,140,000	$2,840,000
Total Funds Available	**$19,640,000**	**$18,430,000**

SECTION 5.3.(b) Appropriations are made from the Information Technology Fund for the 2007-2009 fiscal biennium as follows:

Office of Information Technology Services	**FY 2007-2008**	**FY 2008-2009**
Information Technology Operations	$9,452,835	$8,152,835
Information Technology Projects	$4,497,165	$4,497,165
BEACON/Data Integration Funds	$5,000,000	$5,000,000
Total	**$18,950,000**	**$17,650,000**

PART VI. GENERAL PROVISIONS

APPROPRIATION OF CASH BALANCES AND RECEIPTS

SECTION 6.1.(a) Expenditures of cash balances, federal funds, departmental receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and authorized for the 2007-2009 fiscal biennium as follows:

(1) For all budget codes listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2007-2008 fiscal year and the 2008-2009 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly.

(2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated for each year of the 2007-2009 fiscal biennium up to the level of actual expenditures for the 2006-2007 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the 2006-2007 fiscal year.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2007-2008 fiscal year and the 2008-2009 fiscal year and shall be used only to pay debt service requirements.

(4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2007-2008 fiscal year and the 2008-2009 fiscal year.

All these cash balances, federal funds, departmental receipts, grants, and gifts shall be expended and reported in accordance with the provisions of the State Budget Act, except as otherwise provided by law and this section.

SECTION 6.1.(b) Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act.

Overrealized receipts are appropriated up to the amounts necessary to implement this subsection.

In addition to the consultation and reporting requirements set out in G.S. 143C-6-4, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter on any overrealized receipts approved for expenditure under this subsection by the Director of the Budget. The report shall include the source of the receipt, the amount overrealized, the amount authorized for expenditure, and the rationale for expenditure.

SECTION 6.1.(c) Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year.

EXPENDITURES OF FUNDS IN RESERVES LIMITED

SECTION 6.2. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

REVISE FREQUENCY OF FEE REPORT

SECTION 6.3. G.S. 143C-9-4 reads as rewritten:

"§ **143C-9-4. ~~Annual Fee Report.~~Biennial fee report.**

The Office of State Budget and Management shall prepare a report ~~annually~~ biennially on the fees charged by each State department, bureau, division, board, commission, institution, and agency during the previous two fiscal ~~year.~~years. The report shall include the statutory or regulatory authority for each fee, the amount of the fee, when the amount of the fee was last changed, the number of times the fee was collected during the prior fiscal year, and the total receipts from the fee during the prior fiscal year."

BUDGET REALIGNMENT

SECTION 6.4. Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Office of the State Controller and the Fiscal Research Division, may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the certified budget to reflect these adjustments only after reporting the proposed adjustments to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR INCREASING FEES PURSUANT TO THE STATE BUDGET ACT

SECTION 6.5. Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act.

STAFFING ANALYSIS OF STATE AGENCY BUSINESS FUNCTIONS AND REDEPLOYMENT OF RESOURCES FROM HR/PAYROLL MANAGEMENT

SECTION 6.7.(a) The Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall conduct annual follow-up analyses of the Human Resources/Payroll Function Mapping Analysis that was completed in fiscal year 2007 by the BEACON staff and the Office of State Budget and Management. This initial analysis was conducted to provide not only a pre-implementation assessment of State agency Human Resources/Payroll staffing prior to BEACON HR/Payroll implementation but also to provide a basis on which new HR/Payroll roles required by BEACON implementation can be mapped. These follow-up analyses of State agency HR/Payroll staffing shall be completed by January 1 of each year to assure the staffing levels remain appropriate. The annual staffing analyses shall be conducted throughout the implementation of the BEACON HR/Payroll System and shall continue for a reasonable time after the implementation to assure that the staffing levels are adjusted based on the increased efficiency provided by the implementation.

SECTION 6.7.(b) The Office of State Budget and Management, in consultation with the Office of State Controller, shall conduct a staffing analysis of the business functions of State government to include, but not be limited to, agency fiscal offices, budget offices, and procurement offices to be completed by April 30, 2008. This initial analysis will serve as a pre-implementation assessment of State agency business

functions staffing prior to the proposed implementation of the remaining components of the BEACON ERP System. Follow-up analyses shall be conducted annually and completed by January 1 of each year to assure the staffing levels remain appropriate. The annual staffing analyses shall be conducted throughout the implementation of future BEACON components and shall continue for a reasonable time after the implementation to assure that the staffing levels are adjusted based on the increased efficiency provided by the implementation.

SECTION 6.7.(c) By April 30, 2008, the Office of State Budget and Management, in consultation with the Office of State Controller, and then by January 1, 2009, and annually thereafter, the Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall report to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division on the results of the annual staffing analyses of State government business functions conducted pursuant to subsection (a) of this section and on the implementation of the BEACON HR/Payroll System.

SECTION 6.7.(d) Prior to any staffing changes that result from the staffing analyses conducted pursuant to subsection (b) of this section, the Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall report to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division on the annual staffing analyses of State government business functions conducted pursuant to subsection (b) of this section and on the proposed implementation of the remaining components of the BEACON ERP System.

SECTION 6.7.(e) Notwithstanding any other provision of law, the Office of State Budget and Management may evaluate the impact of the BEACON Program on affected agencies and develop a plan for addressing resources affected by the Program. The State Redeployment Plan shall be implemented to the extent possible. When compliance with federal or State law requires, a new position may be created if a current or contracted position is eliminated. The Office of State Budget and Management, in consultation with the Office of the State Controller, shall report to the Joint Legislative Commission on Governmental Operations within 30 days for each employee change made under the State Redeployment Plan and shall include a five-year fiscal impact incurred by the State when converting any contracted position to a permanent position. This subsection expires June 30, 2008.

BEACON DATA INTEGRATION

SECTION 6.8.(a) The Office of the State Controller, in cooperation with the State Chief Information Officer, shall develop a Strategic Implementation Plan for the integration of databases and the sharing of information among State agencies and programs. This plan shall be developed and implemented under the governance of the BEACON Project Steering Committee and in conjunction with leadership in State agencies and with the support and cooperation of the Office of State Budget and Management. This plan shall include the following:

(1) Definition of requirements for achieving statewide data integration.

(2) An implementation schedule to be reviewed and adjusted by the General Assembly annually based on funding availability.

(3) Priorities for database integration, commencing with the integration of databases that the BEACON Project Steering Committee identifies as most beneficial in terms of maximizing fund availability and realizing early benefits.

(4) Identification of current statewide and agency data integration efforts and a long-term strategy for integrating those projects into this effort.

(5) Detailed cost information for development and implementation, as well as five years of operations and maintenance costs.

While it is the intent that this initiative provide broad access to information across State government, the plan shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law shall be limited to appropriate and authorized persons.

SECTION 6.8.(b) The State Controller shall serve as Chairman of the BEACON Project Steering Committee (Committee). The other members of the Committee shall include the State Chief Information Officer, the State Personnel Director, the Deputy State Budget Director, and the Department of Transportation's Chief Financial Officer.

SECTION 6.8.(c) Of the funds appropriated from the General Fund to the North Carolina Information Technology Fund, the sum of five million dollars ($5,000,000) for the 2007-2008 fiscal year shall be used for BEACON data integration as provided by subsection (a) of this section. The Office of the State Controller, in coordination with State agencies and with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any federal matching funds or other resources to assist in funding this initiative.

Funds authorized in this section may be used for the following purposes:

(1) To support the cost of a project manager to conduct the activities outlined herein reportable to the Office of the State Controller.

(2) To support two business analysts to provide support to the program manager and agencies in identifying requirements under this program.

(3) To engage a vendor to develop the Strategic Implementation Plan as required herein.

(4) To conduct integration activities as approved by the BEACON Project Steering Committee. The State Chief Information Officer shall utilize current enterprise licensing to implement these integration activities.

SECTION 6.8.(d) The Office of the State Controller, with the assistance of the State Chief Information Officer, shall present the Strategic Implementation Plan outlined by this section to the 2007 Regular Session of the General Assembly when it convenes in 2008 for action as deemed appropriate. This plan shall be completed not later than April 30, 2008.

Prior to the reconvening of the 2007 Regular Session of the General Assembly in 2008, the Office of the State Controller shall provide semiannual reports to the Joint Legislative Oversight Committee for Information Technology. Written reports shall be submitted not later than October 1, 2007, and April 1, 2008, with presentations of the reports at the first session of the Joint Legislative Oversight Committee on Information Technology following the written report submission date. The Joint Legislative Oversight Committee on Information Technology shall then report to the Joint Legislative Commission on Governmental Operations.

SECTION 6.8.(e) Neither the development of the Strategic Information Plan nor the provisions of this section shall place any new or additional requirements upon The University of North Carolina or the North Carolina Community College System.

USE OF COLLECTION ASSISTANCE FEE

SECTION 6.9.(a) G.S. 105-243.1(e)(4) reads as rewritten:

"(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed ~~three hundred fifty-three thousand dollars ($353,000)~~ five hundred thousand dollars ($500,000) a year."

SECTION 6.9.(b) The General Assembly finds that a computer system that records tax payments and determines when the payments are overdue directly and primarily relates to the collection of overdue tax debts and that the cost of the computer system is subject to the collection assistance fee set forth in G.S. 105-243.1. The Department of Revenue is authorized to use funds in the 20% Collection Assistance Fee Account, Budget Code 24704-2474, during the 2007-2008 fiscal year to replace the Department's current computer system, and these funds are appropriated to the Department for that purpose. The Department shall not use more than fifteen million dollars ($15,000,000) from the Account to replace the Department's current computer system. Funds appropriated to the Department in this subsection remain in the Account until withdrawn for expenditures for a replacement computer system and shall remain in the Account if not expended during the 2007-2008 fiscal year for the purposes set forth in this subsection.

SECTION 6.9.(c) The Department of Revenue shall contract with private counsel with the pertinent information technology and computer law expertise to review requests for proposals and to negotiate and review contracts associated with the Integrated Tax Administration System. G.S. 114-2.3 does not apply to this subsection.

OFFICE OF INFORMATION TECHNOLOGY SERVICES BUDGET REVIEW

SECTION 6.11.(a) Notwithstanding G.S. 147-33.88, the Office of Information Technology Services (ITS) shall develop an annual budget for review and approval by the Office of State Budget and Management in accordance with the schedule prescribed by the Director. The approved ITS budget shall be included in the Governor's budget recommendations to the General Assembly.

SECTION 6.11.(b) The Office of State Budget and Management shall ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by the Office of Information Technology Services.

OFFICE OF INFORMATION TECHNOLOGY SERVICES REVIEW OF STATE IT BUDGET SUBMISSIONS

SECTION 6.12.(a) The State Chief Information Officer (SCIO) shall review each information technology project budget request from the various State departments, agencies, and institutions prior to the formal submission of those requests to the Governor in order to facilitate a coherent and cost-effective State investment strategy for information technology projects and systems. The SCIO's review shall:

(1) Identify the purpose of the information technology project or system.

(2) Identify whether the project or system would result in any duplication of effort across governmental agencies, including State, local, and federal agencies.

(3) Determine the completeness, timeliness, and accessibility of the data developed and used by the system.
(4) Estimate the cost and actual staffing for the project or system.
(5) Ascertain the organizational location of the system as well as the hardware and software inventories associated with the system or project.
(6) Assess the current and potential benefits that the technology investment would provide to the State.
(7) Identify any opportunities for the State to leverage federal and local support of the information technology system or project.
(8) Consider any other information pertinent to the utility, functionality, and cost-effectiveness of the project or system.

The SCIO shall submit the detailed analysis of each information technology budget request to the Office of State Budget and Management (OSBM). Based on that analysis, the OSBM may require State departments, agencies, and institutions to coordinate information technology budget requests and projects to increase efficiency and eliminate duplication in the governance, organization, staffing, and functionality of information technology projects and systems across State government.

SECTION 6.12.(b) By February 1, 2008, the Office of State Budget and Management shall report to the General Assembly on its efforts and outcomes relative to increasing the efficiency and cost-effectiveness of the State's information technology projects and programs as prescribed by this section. This report shall include detailed information on initiatives to eliminate duplication.

SECTION 6.12.(c) This section does not apply to The University of North Carolina System or to the Judicial Branch.

GEOGRAPHIC INFORMATION SYSTEM (GIS) STUDY

SECTION 6.13.(a) The Office of State Budget and Management (OSBM), in consultation with the Center for Geographic Information and Analysis (CGIA), the State Chief Information Officer, and the chair of the Geographic Information Coordinating Council (GICC), shall conduct a study to identify the development and use of Geographical Information Systems (GIS) in North Carolina by State agencies. The study shall identify the purpose of each system; any duplication of effort across agencies, including local governments and federal agencies; the completeness, timeliness, and accessibility of the data developed and used by the systems; the cost and actual staffing for each system; the organizational location of each system; and the hardware and software inventories associated with each system. The study shall also assess the current and potential benefits that GIS investments provide to the State and identify opportunities for the State to leverage federal and local support for North Carolina GIS systems.

SECTION 6.13.(b) OSBM shall make recommendations on the governance, organization, and staffing of GIS in and across State agencies and on a coherent and cost-effective State investment strategy for GIS that appropriately leverages local and federal support and eliminates duplication of capabilities. The report shall include a recommended strategy for consolidating State GIS initiatives. The OSBM shall make a written report of these findings and recommendations to the General Assembly by April 30, 2008.

SECTION 6.13.(c) This section does not apply to The University of North Carolina or to the Judicial Branch.

E-COMMERCE LONG-RANGE STRATEGY REPORT

SECTION 6.14. The Office of the State Controller shall evaluate the opportunities for efficiencies in State government through the use of electronic commerce as it relates to both disbursement and collection of funds, and shall report the results of that evaluation to the 2008 Regular Session of the 2007 General Assembly. The report shall include all of the following:

(1) Input from the entire State government user base, including State agencies, universities, community colleges, local education agencies, and other units of government that may be disbursing or collecting State funds. Input is also to be obtained from the various central agencies involved in the financial affairs of State government and from the Office of Information Technology.

(2) Specific proposals that would, if implemented, expand electronic commerce activity in the State government fiscal environment, and which shall include the establishment of an ongoing function within State government to execute the expansion. The recommendations should address activities that are suitable for statewide contractual arrangements, as well as those suitable for governmental entities to pursue individually. The recommendations should include expected costs and benefits of these implementations; recommendations for funding recurring and nonrecurring costs of the specific proposals; and a business case to support the recommendations.

(3) Proposed legislation that may be considered by the 2008 Regular Session of the 2007 General Assembly to ensure compliance with merchant card industry policies and standards for operations and security.

(4) Proposed legislation that may be considered by the 2008 Regular Session of the 2007 General Assembly that addresses any inconsistencies or conflicts in existing statutes relating to electronic commerce activities.

Periodic updates on this activity may be requested by the Joint Legislative Commission on Governmental Operations. The final report is due no later than April 30, 2008.

UNC DISTINGUISHED PROFESSOR CHALLENGE-GRANT INITIATIVE/REDUCE BACKLOG FOR DISTINGUISHED PROFESSOR ENDOWMENT TRUST FUND PROFESSORSHIPS

SECTION 6.15.(a) The UNC Distinguished Professor Challenge-Grant Initiative is established as a reserve fund to be administered by the Board of Governors of The University of North Carolina. Funds in the UNC Distinguished Professor Challenge-Grant Initiative shall be used to provide State matching funds for a private challenge-grant initiative and shall be allocated consistent with G.S. 116-41.15. Funds from the UNC Distinguished Professor Challenge-Grant Initiative when matched with private funds shall provide the funding required to endow one distinguished professorship at each of the 16 constituent institutions of The University of North Carolina in the 2007-2008 fiscal year. All professorships endowed through this Initiative shall be in the fields of teacher education, engineering, nursing, or the traditional arts and sciences.

SECTION 6.15.(b) Funds are allocated in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for the purpose of addressing the existing backlog of professorships under the Distinguished Professors Endowment Trust Fund.

ELIMINATION OF VACANT POSITIONS

SECTION 6.17.(a) The Office of State Budget and Management shall eliminate vacant positions across State government that are funded through the General Fund in order to generate a recurring annual savings of ten million thirty-eight thousand four hundred sixty-six dollars ($10,038,466) for each year of the 2007-2009 fiscal biennium, by transferring from the various State departments, agencies, and institutions the salary and benefits-related funding appropriated for State government positions. There is established in the Office of State Budget and Management a Reserve for Eliminated Positions.

Notwithstanding G.S. 143C-6-9, the sum of ten million thirty-eight thousand four hundred sixty-six dollars ($10,038,466) shall be credited to the Reserve for Eliminated Positions from the savings associated with the elimination of vacant positions required by this section, effective July 1, 2007.

SECTION 6.17.(b) The provisions of this section do not apply to The University of North Carolina, to the Community Colleges System, or to local school administrative units.

STUDY OF LAPSED SALARY USE

SECTION 6.18.(a) The Office of State Budget and Management shall conduct an analysis of lapsed salary use by all State agencies. The analysis shall include a five-year history of lapsed salaries generated by State departments, institutions, and agencies and the uses of those lapsed salaries. The report should note instances where spending of lapsed salaries was specifically authorized by legislative action. The report shall include recommendations for methods to reduce the use of lapsed salary and the amount of funds generated as lapsed salary by use for each State department, institution, and agency.

SECTION 6.18.(b) The Office of State Budget and Management shall report its findings to the Joint Legislative Commission on Governmental Operations by April 30, 2008.

SALARY RESERVE BALANCES

SECTION 6.19. Notwithstanding G.S. 143C-6-4(b)(2), during the 2007-2009 fiscal biennium, a State agency may, with approval of the Director of the Budget, spend more than was authorized in the certified budget for a purpose or program if the overexpenditure is required to accommodate the redistribution of salary reserve balances within a State department.

CLARIFY THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE DIRECTOR OF A LOCAL MANAGEMENT ENTITY

SECTION 6.20.(a) G.S. 122C-121 reads as rewritten:

"§ **122C-121. Area director.**

(a) The area director is an employee of the area ~~board~~ board, shall serve at the pleasure of the board, and shall be appointed in accordance with G.S. 122C-117(7). ~~The area director is the administrative head of the area program.~~ As used in this subsection,

"employee" means an individual and does not include a corporation, a partnership, a limited liability corporation, or any other business association.

(a1) The area board shall establish the area director's salary under Article 3 of Chapter 126 of the General Statutes. An area board may request an adjustment to the salary ranges under G.S. 126-9(b). The request shall include specific information supporting the need for the adjustment, including comparative salary and patient caseload data for other LMEs, and shall also include the specific amount the area board proposes to pay the director. The area board shall not request a salary adjustment that is more than ten percent (10%) above the normal allowable salary range as determined by the State Personnel Commission.

(a2) The area board shall not provide the director with any benefits that are not also provided by the area board to all permanent employees of the area program. The director shall be reimbursed only for allowable employment-related expenses at the same rate and in the same manner as other employees of the area program.

(b) The area board shall evaluate annually the area director for performance based on criteria established by the Secretary and the area board. In conducting the evaluation, the area board shall consider comments from the board of county commissioners.

(c) The area director is the administrative head of the area program. In addition to the duties under G.S. 122C-111, the area director shall:

(1) ~~Appoint and supervise~~ Appoint, supervise, and terminate area program staff.
(2) Administer area authority services.
(3) Develop the budget of the area authority for review by the area board.
(4) Provide information and advice to the board of county commissioners through the county manager.
(5) Act as liaison between the area authority and the Department.

(d) Except when specifically waived by the Secretary, the area director shall meet all the following minimum qualifications:

(1) Masters degree.
(2) Related experience.
(3) Management experience.
(4) Any other qualifications required under G.S. 122C-120.1."

SECTION 6.20.(b) This section is effective when this act becomes law, and G.S. 122C-121(a1) and (a2), as enacted in subsection (a) of this section, applies to salary plans submitted and contracts entered into, extended, modified, or renewed on or after that date.

CONTINUATION REVIEW OF CERTAIN FUNDS, PROGRAMS, AND DIVISIONS

SECTION 6.21.(a) No later than February 1, 2008, the Administrative Office of the Courts shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:

(1) Association of Clerks of Superior Court.
(2) The Conference of District Attorneys.

The report shall include all of the information listed in subsection (g) of this section.

SECTION 6.21.(b) No later than February 1, 2008, the Department of Correction shall provide a written report to the Appropriations Committees of the

Senate and House of Representatives on the Criminal Justice Partnership Program. The report shall include all of the information listed in subsection (g) of this section.

SECTION 6.21.(c) No later than February 1, 2008, the Department of Juvenile Justice and Delinquency Prevention shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Juvenile Crime Prevention Councils. The report shall include all of the information listed in subsection (g) of this section.

SECTION 6.21.(d) No later than February 1, 2008, the Department of Environment and Natural Resources shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Environmental Stewardship Initiative. The report shall include all of the information listed in subsection (g) of this section.

SECTION 6.21.(e) No later than February 1, 2008, the Board of Governors of The University of North Carolina shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Center for Nursing. The report shall include all of the information listed in subsection (g) of this section.

SECTION 6.21.(f) No later than February 1, 2008, the Department of Health and Human Services shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:

(1) Office of Policy and Planning.

(2) Dental Supplies/Division of Public Health.

The report shall include all of the information listed in subsection (g) of this section.

SECTION 6.21.(g) The reports required in this section shall include the following information for each program:

(1) A description of the program, including information on services provided, the recipients of the services, and the resource requirements.

(2) Meaningful measures of program performance and whether the program is meeting these measures.

(3) The rationale for continuing, reducing, or eliminating funding.

(4) The consequences of discontinuing program funding.

(5) Recommendations for improving services.

(6) Recommendations for reducing costs.

(7) The identification of policy issues that should be brought to the attention of the General Assembly.

SECTION 6.21.(h) The Appropriations Committees of the Senate and House of Representatives may review the funds, programs, and divisions listed in this section and shall determine whether to continue, reduce, or eliminate funding for the funds, programs, and divisions, subject to the continuation review program. The Fiscal Research Division may issue instructions to the State departments and agencies affected by this section regarding the expected content and format of the reports required by this section.

LIMIT IMPERVIOUS SURFACES FOR VEHICLE PARKING

SECTION 6.22.(a) G.S. 143-214.7 is amended by adding a new subsection to read:

"(d2) Any area designed for use as a vehicle parking area, except for covered vehicle parking areas or multilevel vehicle parking areas, shall not exceed eighty

percent (80%) built-upon area, as defined in S.L. 2006-246. The remaining area designed for use as a vehicle parking area shall meet:

(1) The design requirements for a permeable pavement system, as determined in guidance documents prepared by the Department or

(2) Other design requirements for stormwater management approved by the Department, including, but not limited to, the use of (i) grass and other pervious surfaces and (ii) bioretention ponds, cisterns, and other water retention devices."

SECTION 6.22.(b) The Environmental Review Commission may study issues related to the use of pervious surfaces for vehicle parking areas, including the costs associated with the use of pervious surfaces, the impact to the environment of stormwater runoff, and the practices of other states with regard to stormwater best management practices. The Commission may report its findings and recommendations, including any legislative proposals, to the 2007 Regular Session of the General Assembly when it reconvenes in 2008.

Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate twenty-five thousand dollars ($25,000) to conduct this study.

SECTION 6.22.(c) Subsection (a) of this section becomes effective October 1, 2008, and applies to any area designed to be used for vehicular parking for which an application for a building permit, a request for a zoning reclassification, or a subdivision plat is filed in the county or city in which the area is located on or after that date. The remainder of this section is effective when this act becomes law.

UNIVERSITY CANCER RESEARCH FUND

SECTION 6.23.(a) G.S. 105-113.35 reads as rewritten:

"§ **105-113.35. Tax on tobacco products other than ~~cigarettes.~~cigarettes; use of proceeds.**

(a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the rate of ~~three percent (3%)~~ten percent (10%) of the cost price of the products. This tax does not apply to the following:

(1) A tobacco product sold outside the State.

(2) A tobacco product sold to the federal government.

(3) A sample tobacco product distributed without charge.

(b) Primary Liability. – The wholesale dealer or retail dealer who first acquires or otherwise handles tobacco products subject to the tax imposed by this section is liable for the tax imposed by this section. A wholesale dealer or retail dealer who brings into this State a tobacco product made outside the State is the first person to handle the tobacco product in this State. A wholesale dealer or retail dealer who is the original consignee of a tobacco product that is made outside the State and is shipped into the State is the first person to handle the tobacco product in this State.

(c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.

(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. Once granted permission, a

manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

(e) Use. – Of the funds collected pursuant to this section, the Secretary shall deposit an amount equal to three percent (3%) of the cost price of the products to the General Fund, and the Secretary shall remit the remainder of the funds to the University Cancer Research Fund established pursuant to G.S. 116-29.1."

SECTION 6.23.(b) Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-29.1. University Cancer Research Fund.**

(a) Fund. – The University Cancer Research Fund is established as a special revenue fund in the Office of the President of The University of North Carolina. Allocations from the fund shall be made in the discretion of the Cancer Research Fund Committee and shall be used only for the purpose of cancer research under UNC Hospitals, the Lineberger Comprehensive Cancer Center, or both.

(b) The General Assembly finds that it is imperative that the State provide a minimum of fifty million dollars ($50,000,000) each calendar year to the University Cancer Research Fund; therefore, effective July 1 of each calendar year:

(1) Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust Account, the sum of eight million dollars ($8,000,000) is transferred from the Tobacco Trust Account to the University Cancer Research Fund and appropriated for this purpose.

(2) The funds remitted to the University Cancer Research Fund by the Secretary of Revenue from the tax on tobacco products other than cigarettes pursuant to G.S. 105-113.41 is appropriated for this purpose.

(3) An amount equal to the difference between (i) fifty million dollars ($50,000,000) and (ii) the amounts appropriated pursuant to subdivisions (1) and (2) of this subsection is appropriated from the General Fund for this purpose.

(c) Cancer Research Fund Committee. – The Cancer Research Fund Committee shall consist of five ex officio members and two appointed members. The five ex officio members shall consist of the following: (i) one member shall be the President of The University of North Carolina, (ii) one member shall be the Director of the Lineberger Comprehensive Cancer Center, (iii) one member shall be the Dean of the School of Medicine at The University of North Carolina, (iv) one member shall be the Dean of the School of Pharmacy at The University of North Carolina, and (v) one member shall be the Dean of the School of Public Health at The University of North Carolina. The remaining two members shall be appointed by a majority vote of the standing members of the Committee and shall be selected from persons holding a leadership position in a nationally prominent cancer program.

If any of the specified positions cease to exist, then the successor position shall be deemed to be substituted in the place of the former one, and the person holding the successor position shall become an ex officio member of the Committee.

(d) Chair. – The chair shall be the President of The University of North Carolina.

(e) Quorum. – A majority of the members shall constitute a quorum for the transaction of business.

(f) Meetings. – The Committee shall meet at least once in each quarter and may hold special meetings at any time and place at the call of the chair or upon the written request of at least a majority of its members."

SECTION 6.23.(c) Notwithstanding G.S. 116-29.1(b)(3), the amount appropriated from the General Fund to the University Cancer Research Fund for the 2007-2008 fiscal year is five million six hundred thousand dollars ($5,600,000), and the amount appropriated from the General Fund to the University Cancer Research Fund for the 2008-2009 fiscal year is fifteen million five hundred thousand dollars ($15,500,000).

SECTION 6.23.(d) Subsection (a) of this section becomes effective October 1, 2007, and applies to products acquired on or after the effective date, and taxes paid on or after the effective date.

A wholesale dealer or retail dealer of tobacco products other than cigarettes who has an inventory of these products on hand on the effective date of the tax increase made by subsection (a) of this section must file a report of the inventory with the Secretary and pay an additional tax on the inventory. The report must be filed within 20 days after the effective date of the tax increase. The amount of the additional tax is the difference between the amount of tax payable at the former tax rate and the increased tax rate.

STATE SUPPORT OF OUR MILITARY PERSONNEL

SECTION 6.24. The General Assembly finds that North Carolina has a rich military heritage and is the site of some of the nation's major military installations, including Camp Lejeune, Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, New River Marine Corps Air Station, United States Coast Guard Air Station, Elizabeth City, and Cherry Point Marine Corps Air Station. The General Assembly further finds that North Carolina is the home to more than 770,000 veterans of our nation's armed forces and about 120,000 active-duty military personnel, one of the largest active-duty military populations in our entire country. In appreciation of and gratitude to those North Carolinians, both living and deceased, who have served in our armed forces in service to our country, the General Assembly provides funding for and support of the following initiatives:

(1) Defense and Security Technology Accelerator.
(2) Mental Health Services for Returning Veterans.
(3) The Soldier Institute for Regenerative Medicine.
(4) Military Morale, Welfare, and Recreation Fund.
(5) National Guard Family Assistance Centers.
(6) National Guard Pension Fund.
(7) "More at Four" for children of deployed military personnel.

MODIFY HOURS OF SALE FOR PERMITTEES AUTHORIZED TO ENGAGE IN IN-STAND SALES PURSUANT TO G.S. 18B-1009

SECTION 6.25. G.S. 18B-1006 is amended by adding a new subsection to read:

"(q) The hours for sales and consumption of alcoholic beverages on the premises of a permittee who meets the requirements of G.S. 18B-1009 shall be one hour earlier than permitted by G.S. 18B-1004(c)."

PART VII. PUBLIC SCHOOLS

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2007-2008 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and

for longevity in accordance with subsection (d) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

These funds shall be allocated to individuals according to rules adopted by the State Board of Education.

SECTION 7.1.(b) The following monthly salary schedules shall apply for the 2007-2008 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 32 steps with each step corresponding to one year of teaching experience.

2007-2008 Monthly Salary Schedule
"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,975	N/A
1	$3,017	N/A
2	$3,061	N/A
3	$3,217	$3,603
4	$3,357	$3,760
5	$3,491	$3,910
6	$3,620	$4,054
7	$3,724	$4,171
8	$3,772	$4,225
9	$3,821	$4,280
10	$3,871	$4,336
11	$3,920	$4,390
12	$3,971	$4,448
13	$4,022	$4,505
14	$4,075	$4,564
15	$4,129	$4,624
16	$4,184	$4,686
17	$4,239	$4,748
18	$4,298	$4,814
19	$4,356	$4,879
20	$4,414	$4,944
21	$4,476	$5,013
22	$4,537	$5,081
23	$4,603	$5,155
24	$4,667	$5,227
25	$4,732	$5,300
26	$4,798	$5,374
27	$4,866	$5,450
28	$4,937	$5,529
29	$5,008	$5,609
30	$5,106	$5,719
31+	$5,208	$5,833

2007-2008 Monthly Salary Schedule
"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification

0	$3,273	N/A
1	$3,319	N/A
2	$3,367	N/A
3	$3,539	$3,964
4	$3,693	$4,136
5	$3,840	$4,301
6	$3,982	$4,460
7	$4,096	$4,588
8	$4,149	$4,647
9	$4,203	$4,707
10	$4,258	$4,769
11	$4,312	$4,829
12	$4,368	$4,892
13	$4,424	$4,955
14	$4,483	$5,021
15	$4,542	$5,087
16	$4,602	$5,154
17	$4,663	$5,223
18	$4,728	$5,295
19	$4,792	$5,367
20	$4,855	$5,438
21	$4,924	$5,515
22	$4,991	$5,590
23	$5,063	$5,671
24	$5,134	$5,750
25	$5,205	$5,830
26	$5,278	$5,911
27	$5,353	$5,995
28	$5,431	$6,083
29	$5,509	$6,170
30	$5,617	$6,291
31+	$5,729	$6,416

SECTION 7.1.(c) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 7.1.(d) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 7.1.(e) The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 7.1.(f) Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 7.1.(g) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 7.1.(h) As used in this section, the term "teacher" shall also include instructional support personnel.

SECTION 7.1.(i) Teachers paid on Step 0 of the salary schedule for the 2007-2008 school year shall receive a one-time, lump sum sign-on bonus of two hundred fifty dollars ($250.00), payable at the end of the school year.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2007-2008 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the salary schedules for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2007-2008 fiscal year, commencing July 1, 2007, is as follows:

2007-2008 Principal and Assistant Principal Salary Schedules

		Classification			
Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	$3,730	-	-	-	-
5	$3,878	-	-	-	-

6	$4,022	-	-	-	-
7	$4,137	-	-	-	-
8	$4,190	$4,190	-	-	-
9	$4,245	$4,245	-	-	-
10	$4,301	$4,301	$4,355	-	-
11	$4,355	$4,355	$4,412	-	-
12	$4,412	$4,412	$4,468	$4,528	-
13	$4,468	$4,468	$4,528	$4,587	$4,648
14	$4,528	$4,528	$4,587	$4,648	$4,710
15	$4,587	$4,587	$4,648	$4,710	$4,775
16	$4,648	$4,648	$4,710	$4,775	$4,840
17	$4,710	$4,710	$4,775	$4,840	$4,904
18	$4,775	$4,775	$4,840	$4,904	$4,973
19	$4,840	$4,840	$4,904	$4,973	$5,041
20	$4,904	$4,904	$4,973	$5,041	$5,114
21	$4,973	$4,973	$5,041	$5,114	$5,185
22	$5,041	$5,041	$5,114	$5,185	$5,257
23	$5,114	$5,114	$5,185	$5,257	$5,331
24	$5,185	$5,185	$5,257	$5,331	$5,407
25	$5,257	$5,257	$5,331	$5,407	$5,485
26	$5,331	$5,331	$5,407	$5,485	$5,564
27	$5,407	$5,407	$5,485	$5,564	$5,675
28	$5,485	$5,485	$5,564	$5,675	$5,789
29	$5,564	$5,564	$5,675	$5,789	$5,905
30	$5,675	$5,675	$5,789	$5,905	$6,023
31	$5,789	$5,789	$5,905	$6,023	$6,143
32	-	$5,905	$6,023	$6,143	$6,266
33	-	-	$6,143	$6,266	$6,391
34	-	-	$6,266	$6,391	$6,519
35	-	-	-	$6,519	$6,649
36	-	-	-	$6,649	$6,782
37	-	-	-	-	$6,918

2007-2008 Principal and Assistant Principal Salary Schedules

	Classification			
Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-14	$4,775	-	-	-
15	$4,840	-	-	-
16	$4,904	$4,973	-	-
17	$4,973	$5,041	$5,185	-
18	$5,041	$5,114	$5,257	$5,331
19	$5,114	$5,185	$5,331	$5,407
20	$5,185	$5,257	$5,407	$5,485
21	$5,257	$5,331	$5,485	$5,564
22	$5,331	$5,407	$5,564	$5,675
23	$5,407	$5,485	$5,675	$5,789
24	$5,485	$5,564	$5,789	$5,905
25	$5,564	$5,675	$5,905	$6,023

26	$5,675	$5,789	$6,023	$6,143
27	$5,789	$5,905	$6,143	$6,266
28	$5,905	$6,023	$6,266	$6,391
29	$6,023	$6,143	$6,391	$6,519
30	$6,143	$6,266	$6,519	$6,649
31	$6,266	$6,391	$6,649	$6,782
32	$6,391	$6,519	$6,782	$6,918
33	$6,519	$6,649	$6,918	$7,056
34	$6,649	$6,782	$7,056	$7,197
35	$6,782	$6,918	$7,197	$7,341
36	$6,918	$7,056	$7,341	$7,488
37	$7,056	$7,197	$7,488	$7,638
38	$7,197	$7,341	$7,638	$7,791
39	-	$7,488	$7,791	$7,947
40	-	$7,638	$7,947	$8,106
41	-	-	$8,106	$8,268

SECTION 7.2.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 7.2.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 7.2.(e) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

SECTION 7.2.(f) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 7.2.(g) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 7.2.(h) Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 7.2.(i) During the 2007-2008 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

CENTRAL OFFICE SALARIES

SECTION 7.3.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2007-2008 fiscal year, beginning July 1, 2007.

School Administrator I	$3,217	$6,041
School Administrator II	$3,414	$6,407
School Administrator III	$3,624	$6,797
School Administrator IV	$3,770	$7,068
School Administrator V	$3,922	$7,354
School Administrator VI	$4,161	$7,799
School Administrator VII	$4,328	$8,113

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

SECTION 7.3.(b) The monthly salary ranges that follow apply to public school superintendents for the 2007-2008 fiscal year, beginning July 1, 2007.

Superintendent I	$4,594	$8,606
Superintendent II	$4,877	$9,126
Superintendent III	$5,174	$9,682
Superintendent IV	$5,491	$10,270
Superintendent V	$5,828	$10,896

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

SECTION 7.3.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 7.3.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

SECTION 7.3.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 7.3.(f) The annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be four percent (4%), commencing July 1, 2007. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing salary increases to these personnel.

NONCERTIFIED PERSONNEL SALARIES

SECTION 7.4.(a) The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be four percent (4%) commencing July 1, 2007.

SECTION 7.4.(b) Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2006-2007 and who continue their employment for fiscal year 2007-2008 by providing an annual salary increase for employees of four percent (4%).

For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 7.4.(c) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of four percent (4%) for the 2007-2008 fiscal year.

BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY SCHEDULES

SECTION 7.5. Effective July 1, 2007, any permanent personnel employed on July 1, 2007, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 7.6.(a) Funds for Supplemental Funding. – The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement. Therefore, funds are appropriated to State Aid to Local School Administrative Units for the 2007-2008 fiscal year and the 2008-2009 fiscal year to be used for supplemental funds for the schools.

SECTION 7.6.(b) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only: (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks; (ii) for salary supplements for instructional personnel and instructional support personnel; and (iii) to pay an amount not to exceed ten thousand dollars ($10,000) of the plant operation contract cost charged by the Department of Public Instruction for services.

Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools, such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

SECTION 7.6.(c) Definitions. – As used in this section:

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the:

a. Anticipated county property tax revenue availability,

b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,

c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521, and

d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:

a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,

b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,

c. Add to the resulting amount the:

1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,

2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and

3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:

a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,

b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,

c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,

d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

(12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(14) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.6.(d) Eligibility for Funds. – Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 7.6.(e) Allocation of Funds. – Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole

or in part in the county based on the average daily membership of the county's students in the school units.

If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

SECTION 7.6.(f) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 7.6.(g) Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only.

This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

SECTION 7.6.(h) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.6.(i) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2008, if it determines that counties have supplanted funds.

SECTION 7.6.(j) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.7.(a) Funds for Small School Systems. – Except as provided in subsections (b) and (g) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least seven hundred eighty-eight thousand seven hundred eighty-nine dollars ($788,789), excluding textbooks for the 2007-2008 fiscal year and a base of at least seven hundred eighty-eight thousand seven hundred eighty-nine dollars ($788,789) for the 2008-2009 fiscal year.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fully fund the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county school administrative units.

SECTION 7.7.(b) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense

funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.7.(c) Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula because of (i) an increase in the population of the county in which the local school administrative unit is located or (ii) an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be continued for seven years after the unit becomes ineligible.

SECTION 7.7.(d) Definitions. – As used in this section:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual adopted by the State Board of Education.

(2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State-adjusted property tax base per student" means the sum of all county-adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most

recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.7.(e) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2008, if it determines that counties have supplanted funds.

SECTION 7.7.(f) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

SECTION 7.7.(g) Of the expansion funds appropriated for small school system supplemental funding in this act, the sum of seven hundred eighty-four thousand seven hundred three dollars ($784,703) shall be distributed to county school administrative units that have less than 1,300 students and have experienced a decline in average daily membership since the 2001-2002 school year. These funds shall be used to reduce the ratio of students to teachers in grades K-5 by one, in grades 6-8 by two, and in grades 9-12 by three.

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING

SECTION 7.8.(a) Funds are appropriated in this act to address the capacity needs of local school administrative units to meet the needs of disadvantaged students. Each local school administrative unit shall use funds allocated to it for disadvantaged student supplemental funding to implement a plan jointly developed by the unit and the LEA Assistance Program team. The plan shall be based upon the needs of students in the unit not achieving grade-level proficiency. The plan shall detail how these funds shall be used in conjunction with all other supplemental funding allotments such as Low-Wealth, Small County, At-Risk Student Services/Alternative Schools, and Improving Student Accountability to provide instructional and other services that meet the educational needs of these students. Prior to the allotment of disadvantaged student supplemental funds, the plan shall be approved by the State Board of Education.

Funds received for disadvantaged student supplemental funding shall be used, consistent with the policies and procedures adopted by the State Board of Education, only to:

(1) Provide instructional positions or instructional support positions and/or professional development;
(2) Provide intensive in-school and/or after-school remediation;
(3) Purchase diagnostic software and progress-monitoring tools; and
(4) Provide funds for teacher bonuses and supplements. The State Board of Education shall set a maximum percentage of the funds that may be used for this purpose.

The State Board of Education may require districts receiving funding under the Disadvantaged Student Supplemental Fund to purchase the Education Value Added

Assessment System in order to provide in-depth analysis of student performance and help identify strategies for improving student achievement. This data shall be used exclusively for instructional and curriculum decisions made in the best interest of children and for professional development for their teachers and administrators.

SECTION 7.8.(b) Funds are appropriated in this act to evaluate the Disadvantaged Student Supplemental Funding Initiatives and Low-Wealth Initiatives. The State Board of Education shall use these funds to:

(1) Evaluate the strategies implemented by local school administrative units with Disadvantaged Student Supplemental Funds and Low-Wealth Funds and assess their impact on student performance; and

(2) Evaluate the efficiency and effectiveness of the technical assistance and support provided to local school administrative units by the Department of Public Instruction.

The State Board of Education shall report the results of the evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by January 15 of each year.

SECTION 7.8.(c) Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding shall be allotted based on: (i) the local school administrative unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

(1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:20.0;

(2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of 1:19.5;

(3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.3; and

(4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs shall receive no less than the DSSF amount allotted in 2006-2007.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula.

SECTION 7.8.(d) If a local school administrative unit's wealth increases to a level that adversely affects the unit's DSSF allotment ratio, the DSSF allotment for that unit shall be maintained at the prior year level for one additional fiscal year.

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

SECTION 7.9.(a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2.5%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of

the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed ten and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

SECTION 7.9.(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores "superior" on the standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency.

CHILDREN WITH DISABILITIES

SECTION 7.10. The State Board of Education shall allocate funds for children with disabilities on the basis of three thousand one hundred ninety-nine dollars and fifty-seven cents ($3,199.57) per child for a maximum of 171,617 children for the 2007-2008 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2007-2008 allocated average daily membership in the local school administrative unit.

The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.11. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of one thousand forty-two dollars and fifty-three cents ($1,042.53) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2007-2008 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 58,470 children for the 2007-2008 school year.

The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY

SECTION 7.12.(a) Funds appropriated for the 2007-2008 and 2008-2009 fiscal years for Student Accountability Standards shall be used to assist students to perform at or above grade level in reading and mathematics in grades 3-8 as measured by the State's end-of-grade tests. The State Board of Education shall allocate these funds

to local school administrative units based on the number of students who score at Level I or Level II on either reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation category shall be used to improve the academic performance of (i) students who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4 and 7. These funds may also be used to improve the academic performance of students who are performing at Level I or II on the high school end-of-course tests. These funds shall not be transferred to other allocation categories or otherwise used for other purposes. Except as otherwise provided by law, local boards of education may transfer other funds available to them into this allocation category.

The principal of a school receiving these funds, in consultation with the faculty and the site-based management team, shall implement plans for expending these funds to improve the performance of students.

Local boards of education are encouraged to use federal funds such as Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

These funds shall be allocated to local school administrative units for the 2007-2008 fiscal year within 30 days of the date this act becomes law.

SECTION 7.12.(b) Funds appropriated for Student Accountability Standards shall not revert at the end of each fiscal year but shall remain available for expenditure until August 31 of the subsequent fiscal year.

LITIGATION RESERVE FUNDS

SECTION 7.13. The State Board of Education may expend up to two hundred thousand dollars ($200,000) each year for the 2007-2008 and 2008-2009 fiscal years from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.14.(a) The State Board of Education may impose any of the following conditions on allotments to local boards of education for replacement school buses:

(1) The local board of education shall use the funds only to make the first, second, or third year's payment on a financing contract entered into pursuant to G.S. 115C-528.

(2) The term of a financing contract entered into under this section shall not exceed three years.

(3) The local board of education shall purchase the buses only from vendors selected by the State Board of Education and on terms approved by the State Board of Education.

(4) The Department of Administration, Division of Purchase and Contract, in cooperation with the State Board of Education, shall solicit bids for the direct purchase of school buses and activity buses and shall establish a statewide term contract for use by the State Board of Education. Local boards of education and other agencies shall be eligible to purchase from the statewide term contract. The State Board of Education shall also solicit bids for the financing of school buses.

(5) A bus financed pursuant to this section shall meet all State and federal motor vehicle safety regulations for school buses.

(6) Any other condition the State Board of Education considers appropriate.

SECTION 7.14.(b) Any term contract for the purchase or lease-purchase of school buses or school activity buses shall not require vendor payment of the electronic procurement transaction fee of the North Carolina E-Procurement Service.

DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM

SECTION 7.15.(a) If the State Board of Education does not have sufficient resources in the ADM Contingency Reserve line item to make allotment adjustments in accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual, the State Board of Education may use funds appropriated to State Aid for Public Schools for this purpose.

SECTION 7.15.(b) If the higher of the first or second month average daily membership in a local school administrative unit is at least two percent (2%) or 100 students lower than the anticipated average daily membership used for allotments for the unit, the State Board of Education shall reduce allotments for the unit. The reduced allotments shall be based on the higher of the first or second month average daily membership plus one-half of the number of students overestimated in the anticipated average daily membership.

The allotments reduced pursuant to this subsection shall include only those allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual.

CHARTER SCHOOL EVALUATION

SECTION 7.16.(a) The State Board of Education may spend up to fifty thousand dollars ($50,000) a year from State Aid to Local School Administrative Units for the 2007-2008 and 2008-2009 fiscal years to evaluate charter schools. In particular, the State Board of Education shall consider the extent to which charter schools have accomplished the following six objectives, which are set out in G.S. 115C-238.29A:

(1) Improve student learning;

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;

(3) Encourage the use of different and innovative teaching methods;

(4) Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and

(6) Hold the schools established under this Part accountable for meeting measurable student achievement results and provide the schools with a method to change from rule-based to performance-based accountability systems.

SECTION 7.16.(b) The State Board of Education shall report the results of its evaluation to the Joint Legislative Education Oversight Committee and the Fiscal Research Division.

MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS

SECTION 7.17.(a) The State Board of Education shall grant flexibility to a local board of education regarding the use of mentor funds to provide mentoring support, provided the local board submits a detailed plan on the use of the funds to the State Board and the State Board approves that plan. The plan shall include information on how all mentors in the local school administrative unit have been or will be adequately trained to provide mentoring support.

Local boards of education shall use funds allocated for mentor teachers to provide mentoring support to all State-paid newly certified teachers, second-year teachers who were assigned mentors during the prior school year, and entry-level instructional support personnel who have not previously been teachers.

SECTION 7.17.(b) The State Board, after consultation with the Professional Teaching Standards Commission, shall adopt standards for mentor training.

SECTION 7.17.(c) Each local board of education with a plan approved pursuant to subsection (a) of this section shall report to the State Board on the impact of its mentor program on teacher retention. The State Board shall analyze these reports to determine the characteristics of mentor programs that are most effective in retaining teachers and shall report its findings to the Joint Legislative Education Oversight Committee by October 15 of each year of the biennium.

SECTION 7.17.(d) In addition to the report required in subsection (c) of this section, the State shall also evaluate the effectiveness of a representative sample of local mentor programs and report on its findings to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by December 15 of each year of the biennium. The evaluation shall focus on quantitative evidence, quality of service delivery, and satisfaction of those involved. The report shall include the results of the evaluation and recommendations both for improving mentor programs generally and for an appropriate level of State support for mentor programs.

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.18.(a) The State Board of Education shall use funds appropriated in this act for State Aid to Local School Administrative Units to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2006-2007 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

(1) Incentive awards in schools that achieve higher than expected improvements may be:
   a. Up to one thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and
   b. Up to five hundred dollars ($500.00) for each teacher assistant.

(2) Incentive awards in schools that meet the expected improvements may be:
   a. Up to seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and
   b. Up to three hundred seventy-five dollars ($375.00) for each teacher assistant.

SECTION 7.18.(b) The State Board of Education may use funds appropriated to the State Public School Fund to implement the consolidated assistance program, as directed in Section 7.6(b) of S.L. 2006-66. The Board shall report to the

Joint Legislative Education Oversight Committee by January 15, 2008, on any restructuring of the program pursuant to this section.

LEARN AND EARN HIGH SCHOOLS

SECTION 7.19.(a) Funds are appropriated in this act for the Learn and Earn high school workforce development program. The purpose of the program is to create rigorous and relevant high school options that provide students with the opportunity and assistance to earn an associate degree or two years of college credit by the conclusion of the year after their senior year in high school. The State Board of Education shall work closely with the Education Cabinet and the New Schools Project in administering the program.

SECTION 7.19.(b) These funds shall be used to establish new high schools in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and postsecondary college curricula operate seamlessly and meet the needs of participating employers.

Funds shall not be allotted until Learn and Earn high schools are certified as operational.

SECTION 7.19.(c) During the first year of its operation, a high school established under G.S. 115C-238.50 shall be allotted a principal regardless of the number of State-paid teachers assigned to the school or the number of students enrolled in the school. The budget flexibility authorized by G.S. 115C-105.25 does not apply to these positions.

SECTION 7.19.(d) The State Board of Education, in consultation with the State Board of Community Colleges and The University of North Carolina Board of Governors, shall conduct an annual evaluation of this program. The evaluation shall include measures as identified in G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability; (ii) recommended statutory and policy changes; and (iii) recommendations for improvement of the program. The State Board of Education shall report the results of this evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by January 15 of each fiscal year.

SECTION 7.19.(e) Enrollment fees and tuition for The University of North Carolina courses in which Learn and Earn students are enrolled are allowable uses of these funds. Tuition costs may include laboratory fees assessed to all students enrolled in the course or a similar course.

SECTION 7.19.(f) Textbooks required for college courses in which Learn and Earn students are enrolled may be purchased with these funds.

SECTION 7.19.(g) Payment of fees from these funds by local school administrative units to partnering community colleges and universities are restricted to technology or course fees. Funds appropriated in this act shall not be used to support the cost of athletic or other student activity or campus fees not required by enrollment in a specific course.

SECTION 7.19.(h) The State Board of Education shall allot funds for university enrollment, tuition and fees, and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in university courses. The State Board of Education shall allot funds for community college fees and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in community college courses.

SECTION 7.19.(i) Of the funds appropriated to the State Public School Fund for the 2007-2008 fiscal year, the State Board of Education may use up to eight hundred fifty thousand dollars ($850,000) to establish additional Learn and Earn high schools that become certified as operational.

NORTH CAROLINA VIRTUAL PUBLIC SCHOOL

SECTION 7.20.(a) The North Carolina Virtual Public School (NCVPS) program shall report to the State Board of Education and shall maintain an administrative office at the Department of Public Instruction.

SECTION 7.20.(b) The Director of NCVPS shall continue to ensure that course quality standards are established and met and that all e-learning opportunities offered by State-funded entities to public school students are consolidated under the North Carolina Virtual Public School program, eliminating course duplication.

SECTION 7.20.(c) Subsequent to course consolidation, the Director shall prioritize e-learning course offerings for students residing in rural and low-wealth county LEAs, in order to expand available instructional opportunities. First-available e-learning instructional opportunities should include courses required as part of the standard course of study for high school graduation and AP offerings not otherwise available.

SECTION 7.20.(d) The State Board of Education shall implement an allotment formula developed pursuant to Section 7.16(d) of S.L. 2006-66, for funding e-learning, effective in the 2008-2009 fiscal year. NCVPS shall be available at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs. The Department of Public Instruction shall communicate to local school administrative units all applicable guidelines regarding the enrollment of nonpublic school students in these courses.

SECTION 7.20.(f) The State Board of Education may convert the 22 three-month positions that were authorized for NCVPS in S.L. 2006-66 to five full-time positions if the Board determines that it is appropriate to do so.

SMALL RESTRUCTURED HIGH SCHOOLS

SECTION 7.21. The State Board of Education shall report to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee no later than January 15 of each year on the results of its evaluation of the small, restructured high school program. The evaluation shall include measures as identified in G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability; and (ii) recommendations for improvement of the program.

NC WISE POSITIONS

SECTION 7.22. Notwithstanding G.S. 143C-6-4, the State Board of Education may, subject to the approval of the Office of State Budget and Management, in consultation with the Office of Information Technology Services, and after consultation with the Joint Legislative Commission on Governmental Operations, use funds appropriated in this act for NC WISE to create a maximum of 10 positions and incur expenditures necessary to maintain and administer the NC WISE system within the Department of Public Instruction.

21ST CENTURY LITERACY COACHES

SECTION 7.23.(a) Funds are appropriated in this act to support the selection and hiring of new literacy coaches for middle schools or other public schools with an eighth grade class. No more than one literacy coach shall be placed in each such school. The State Board of Education, in consultation with the North Carolina Teacher Academy, shall develop a site selection process including formal criteria. The site must receive formal approval by the State Board of Education to receive funds for this purpose. To be selected schools must:

(1) Contain an eighth grade class, and

(2) Ensure that literacy coaches will have no administrative responsibilities in the schools in which they are placed.

SECTION 7.23.(b) National Board for Professional Teaching Standards (NBPTS) certified teachers serving in these positions shall be exempt from the requirements in G.S. 115C-296.2(b)(2)d. and shall remain on the NBPTS teacher salary schedule.

MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL READINESS

SECTION 7.24.(a) The Department of Public Instruction shall continue the implementation of the "More at Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services and the Department of Public Instruction. The program shall include:

(1) A process and system for identifying children at risk of academic failure.

(2) A process and system for identifying children who are not being served in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.

(3) A curriculum or several curricula that are research-based and/or built on sound instructional theory. These curricula shall: (i) focus primarily on oral language and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.

(4) An emphasis on ongoing family involvement with the prekindergarten program.

(5) Evaluation of child progress through a statewide evaluation, as well as ongoing assessment of the children by teachers.

(6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.

(7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.

(8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services and the Department of Public Instruction. The Department may use the child care rating system to assist in determining program participation.

(9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth-to-kindergarten education.

(10) A local contribution. Programs must demonstrate that they are accessing resources other than "More at Four."

(11) A system of accountability.

(12) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services and the Department of Public Instruction shall consider the reallocation of existing funds from State and local programs that provide prekindergarten-related care and services.

SECTION 7.24.(b) The Department of Public Instruction shall implement a plan to expand "More at Four" program standards within existing resources to include four- and five-star-rated centers and schools serving four-year-olds and develop guidelines for these programs. The "NC Prekindergarten Program Standards" initiative shall recognize four- and five-star-rated centers that choose to apply and meet equivalent "More at Four" program standards as high quality pre-k classrooms. Classrooms meeting these standards shall have access to training and workshops for "More at Four" programs. Whenever expansion slots are available, these classrooms shall have first priority to receive them.

The "More at Four" program shall review the number of slots filled by counties on a monthly basis and shift the unfilled slots to counties with waiting lists. The shifting of slots shall occur through January 31 of each year, at which time any remaining funds for slots unfilled shall be used to meet the needs of the waiting list for subsidized child care.

SECTION 7.24.(c) The Department of Public Instruction shall submit a report by February 1, 2008, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division. This final report shall include the following:

(1) The number of children participating in the program.

(2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.

(3) The expected expenditures for the programs and the source of the local match for each grantee.

(4) The location of program sites and the corresponding number of children participating in the program at each site.

(5) A comprehensive cost analysis of the program, including the cost per child served by the program.

(6) The status of the NC Prekindergarten initiatives as outlined in this section.

SECTION 7.24.(d) For the 2007-2008 and the 2008-2009 fiscal years, the "More at Four" program shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child of (i) an active duty member of the armed forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the armed forces, who is ordered to active duty by the proper authority within the last 18 months or expected to be ordered within the next 18 months, or (ii) a member of the armed forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the armed forces, who was injured or killed while serving on active duty, shall be eligible for the program.

SECTION 7.24.(e) The "More at Four" program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of existing four-year-old classrooms with "More at Four" program funding shall be permitted when current funding is eliminated, reduced, or redirected as required to meet other specified federal or State educational mandates.

SECTION 7.24.(f) If a county is unable to increase "More at Four" slots because of a documented lack of available resources necessary to provide the required local contribution for the additional slots allocated to the county for the 2007-2008 fiscal year, the contract agency for that county may appeal to the Office of School Readiness for an exception to the required local amount for those additional slots. The Office of School Readiness may grant an exception and allot funds to pay up to ninety percent (90%) of the full cost of the additional slots for that county if it finds that (i) there is in fact a documented lack of available resources in the county and (ii) granting the exception will not reduce access statewide to "More at Four" slots.

ADMINISTRATIVE FUNDING FOR TEACHING FELLOWS PROGRAM

SECTION 7.25.(a) G.S. 115C-363.23A(f) reads as rewritten:

"(f) All funds appropriated to or otherwise received by the Teaching Fellows Program for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds, shall be placed in a revolving fund. This revolving fund shall be used for scholarship loans granted under the Teaching Fellows Program. With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used for campus and summer program support, and costs related to disbursement of awards and collection of loan repayments.

~~With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used by the~~ The Public School Forum, as administrator for the Teaching Fellows ~~Program, for~~ Program, may use up to eight hundred ten thousand dollars ($810,000) annually from the fund balance for costs associated with administration of the Teaching Fellows Program."

SECTION 7.25.(b) The funding provided for in this section shall be used to meet current administrative expenses of the Program and continue minority recruitment initiatives.

SECTION 7.25.(c) The Teaching Fellows Program shall report to the Joint Legislative Education Oversight Committee by March 15, 2008, on:

(1) Actual expenditures for the 2006-2007 fiscal year and budgeted expenditures for the 2007-2008 fiscal year for administration of the Program and

(2) Initiatives to recruit minorities to the Program.

SECTION 7.25.(d) The General Assembly urges the North Carolina Teaching Fellows Commission to use funds available in the revolving fund to establish additional teaching fellows scholarships.

NO COST SUMMER SCHOOL OR OTHER REMEDIATION ACTIVITIES

SECTION 7.26.(a) G.S. 115C-105.41 prohibits charging tuition or fees to Students at Risk for Academic Failure. Effective July 1, 2007, local school administrative units shall formally communicate to at-risk students and their parents or guardians that there will be no charge for participation in intervention activities/practices offered by the local school administrative units to at-risk students, or for transportation necessary for participation in the intervention activities.

SECTION 7.26.(b) Effective July 1, 2007, local school administrative units shall formally communicate to students and their parents or guardians that tuition and fees will not be charged for summer school courses that are required for remediation or courses that are necessary for the student to meet graduation requirements.

LEARN AND EARN ONLINE

SECTION 7.27.(a) Funds are appropriated in this act for the Learn and Earn Online program. This program will allow high school students to enroll in college courses to qualify for college credit. Online courses will be made available to students through The University of North Carolina and the North Carolina Community College System.

SECTION 7.27.(b) Funds shall be used for course tuition and only those technology and course fees and textbooks required for course participation. Funds shall also support a liaison position to be housed at the Department of Public Instruction to coordinate with The University of North Carolina and the North Carolina Community College System, and to communicate course availability and related information to high school administrators, teachers, and counselors.

SECTION 7.27.(c) The State Board of Education shall determine the allocation of Learn and Earn Online course offerings across the State.

SECTION 7.27.(d) The State Board of Education shall allot funds for tuition, fees, and textbooks on the basis of, and after verification of, the credit hour enrollment of high school students in Learn and Earn Online courses. Community college student enrollments in Learn and Earn Online shall not be considered as a regular budget full-time equivalent (FTE) in the curriculum enrollment formula, but shall be accounted for separately and funds shall be allotted as a special allotment.

SECTION 7.27.(e) The University of North Carolina program shall report to The University of North Carolina Board of Governors, and the North Carolina Community College program shall report to the North Carolina Community College

Board of Trustees. The Department of Public Instruction shall report to the State Board of Education.

SECTION 7.27.(f) Both The University of North Carolina and the North Carolina Community College System shall provide oversight and coordination, including coordination with the Department of Public Instruction and with the North Carolina Virtual Public School (NCVPS) to avoid course duplication.

SECTION 7.27.(g) Course quality and rigor standards shall be established, and each program shall conduct course evaluations to ensure that the online courses made available to students meet the established standards.

SECTION 7.27.(h) The State Board of Education, The University of North Carolina, and the North Carolina Community College System shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than April 15, 2008, on the implementation of the program for the 2007-2008 school year and the proposed operating plan for the 2008-2009 school year. The report shall include the number of students enrolled in courses under the Learn and Earn Online program and the number of students who completed courses during the fall semester of the 2007-2008 school year.

SECTION 7.27.(i) Local school administrative units may purchase textbooks for Learn and Earn Online courses through the Department of Public Instruction's textbook warehouse in the same manner as textbooks that have been adopted for public school students by the State Board of Education.

SECTION 7.27.(j) Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-1.2. Learn and Earn Online program.**

(a) Notwithstanding 115D-1, a public school student enrolled in grades 9, 10, 11, or 12 and participating in the Learn and Earn Online program shall be permitted to enroll in online courses through a community college for college credit. Students participating in the Learn and Earn Online program may enroll in Learn and Earn Online courses regardless of the college service areas in which they reside.

(b) The State Board of Community Colleges, in consultation with the Department of Public Instruction, shall adopt rules to implement this section beginning with the 2007-2008 school year."

SCHOOL CONNECTIVITY INITIATIVE

SECTION 7.28.(a) Funds are appropriated in this act to support the enhancement of the technology infrastructure for public schools. These funds shall be used for broadband access, equipment, and support services that create, improve, and sustain equity of access for instructional opportunities for public school students and educators.

SECTION 7.28.(b) As recommended in the Joint Report on Information Technology, February 2007, the State Board of Education shall contract with an entity that has the capacity of serving as the administrator of the School Connectivity Initiative and has demonstrated success in providing network services to education institutions within the State. The funds appropriated in this act shall be used to implement a plan approved by the State Board of Education to enhance the technology infrastructure for public schools that supports teaching and learning in the classrooms. The plan shall include the following components:

(1) A business plan with time lines, clearly defined outcomes, and an operational model including a governance structure, personnel, e-Rate reimbursement, support services to local school administrative units and schools, and a budget;
(2) Assurances for a fair and open bidding and contracting process;
(3) Technology assessment site survey template;
(4) Documentation of technology assessments;
(5) Documentation of how the technology will be used to enhance teaching and learning;
(6) Documentation of how existing State-invested funds for technology are maximized to implement the School Connectivity Initiative; and
(7) The number, location, and schedule of sites to be served in 2007-2008 and in 2008-2009.
(8) Assurances that local school administrative units will upgrade internal networks in schools, provide technology tools, and support for teachers and students to use technology to improve teaching and learning.

SECTION 7.28.(c) Funds currently used for the services covered by these new funds shall not be supplanted by this additional funding and shall be used to support instructional technologies and local infrastructure in schools in support of acquisition and delivery of instructional technology resources to the classroom. Any refunds received for services paid with these technology funds shall return to the originating technology fund.

SECTION 7.28.(d) The State Board of Education shall report January 15, 2008, on its progress towards achieving the connectivity initiative and annually thereafter to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

SECTION 7.28.(e) As recommended in the E-Learning Report, February 2006, the Education Cabinet shall develop a plan to:

(1) Coordinate E-learning activities across the public and private universities and colleges, the community colleges, and the public schools;
(2) Establish a clear purpose and goals for the NCVirtual based on stakeholder needs and requirements;
(3) Develop a strategic plan with measurable goals with reports provided to the Education Cabinet;
(4) Develop, track, and report regularly to the Education Cabinet on appropriate accountability measures for those goals;
(5) Develop and manage an E-learning portal for the NCVirtual; and
(6) Use State-invested funds for E-learning to eliminate duplication of service.

SECTION 7.28.(f) Up to three hundred thousand dollars ($300,000) may be transferred to the Office of the Governor to establish NCVirtual (NCV) within the Education Cabinet. These funds may be used for services to coordinate E-learning activities across all State educational agencies.

SECTION 7.28.(g) The Education Cabinet shall report on its progress towards developing the plan on January 1, 2008, and annually thereafter to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative

Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

SECTION 7.28.(h) The State Board of Education may use up to one million dollars ($1,000,000) to establish up to eight regional positions or contract for services regionally to assist local school administrative units in implementing the Initiative. Specifically, these positions and/or contractors will assist with assessment of needs, upgrading, and planning for management of resources and ongoing maintenance. The report required under subsection (d) of this section shall include a description of each position, its salary or contract amount, and its duties.

REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.29.(a) Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may reorganize in accordance with the plan adopted by the State Board of Education. The Department shall report to the Joint Legislative Commission on Governmental Operations on the reorganization.

SECTION 7.29.(b) This section expires June 30, 2008.

STUDY OF PUBLIC SCHOOL FUNDING FORMULAS

SECTION 7.31.(a) There is created the Joint Legislative Study Committee on Public School Funding Formulas. The Committee shall consist of six members of the House of Representatives appointed by the Speaker of the House of Representatives and six members of the Senate appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Committee.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Committee may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee.

SECTION 7.31.(b) The Committee shall perform an extensive study of the following public school funding formulas:

(1) Children with Disabilities;
(2) Limited English Proficiency;
(3) At-Risk Student Services/Alternative Schools;
(4) Improving Student Accountability;
(5) Disadvantaged Students Supplemental;
(6) Low-Wealth Counties Supplemental Funding;
(7) Small County Supplemental Funding;
(8) Transportation of Pupils; and
(9) Academically or Intellectually Gifted.

SECTION 7.31.(c) The Committee shall also study the State Board of Education's model for projecting average daily membership and focus particularly on

how well the model projects average daily membership in rapidly growing local school administrative units with a highly mobile population.

SECTION 7.31.(d) The Committee shall submit a report of its findings and recommendations, including any legislative recommendations, to the 2008 Regular Session of the 2007 General Assembly. The Committee shall terminate upon filing its report.

DROPOUT PREVENTION GRANTS

SECTION 7.32.(a) Findings. – The General Assembly finds that:

(1) North Carolina's schools recorded 22,180 dropout events in grades 9-12 for 2005-2006, a nine and nine-tenths percent (9.9%) increase from the count reported in 2004-2005. It is the highest count of dropouts since 1999-2000.

(2) A disproportionate share of the increase in dropout rates occurred in large local school administrative units.

(3) Black males accounted for a disproportionate amount of the increase in dropout count, and the dropout rate for black males increased to seven and one-hundredths percent (7.01%), an eight and four-tenths percent (8.4%) increase over the 2004-2005 rate.

(4) Students drop out of school for a variety of reasons, including academic issues, family and other personal reasons, discipline issues, drug abuse, the need to work, school size, and school climate.

(5) Students who drop out of school without graduating are more likely to be unemployed, receive public assistance, and have a higher incarceration rate than those who graduate.

(6) In order for our citizens and State to thrive in a global, knowledge-based economy, it is imperative that more of our students graduate from high school with the knowledge and skills needed for postsecondary education or high-skilled employment.

(7) Differing local needs and local resources necessitate the development of locally generated programs and initiatives that target dropouts and high school retention.

SECTION 7.32.(b) Purpose. – Recognizing that having an unacceptable dropout rate is not a new development in North Carolina, or in the rest of the country, and that over the years there have been, and continue to be, many programs and initiatives that have strived to address this issue, the purpose of this section is to focus attention and resources on innovative programs and initiatives that succeed in keeping students in school when other conflicting factors are pushing them to drop out before they are prepared to further their postsecondary education or enter the workforce.

SECTION 7.32.(c) Committee. – There is established the Committee on Dropout Prevention. The Committee shall be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Committee and shall provide staff to the Committee.

The Committee shall determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under subsection (d) of this section, the amount of each grant, and eligible uses of the grant funding. The Committee shall consist of the following 15 members:

(1) The Governor shall appoint five members, of whom one is a superintendent of schools, one is a representative of a nonprofit, and one is a school social worker;
(2) The President Pro Tempore of the Senate shall appoint five members, of whom one is a principal, one is a representative of a school of education, and one is a school counselor; and
(3) The Speaker of the House of Representatives shall appoint five members, of whom one is a teacher, one is a member of the business community, and one is a representative of the juvenile justice system.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest.

SECTION 7.32.(d) Dropout Prevention Grants. – The following criteria apply to dropout prevention grants approved by the Committee established under subsection (c) of this section.

(1) Grants shall be issued in varying amounts up to a maximum of one hundred fifty thousand dollars ($150,000).
(2) These grants shall be provided to innovative programs and initiatives that target students at risk of dropping out of school and that demonstrate the potential to (i) be developed into effective, sustainable, and coordinated dropout prevention and reentry programs in middle schools and high schools and (ii) serve as effective models for other programs.
(3) Priority shall be given to new programs and initiatives or to those that have begun within the last five school years.
(4) Grants shall be distributed geographically throughout the State.
(5) Grants may be made to local school administrative units, schools, local agencies, or nonprofit organizations.
(6) Grants shall be to programs and initiatives that hold all students to high academic and personal standards.
(7) Grant applications shall state (i) how grant funds will be used, (ii) what, if any, other resources will be used in conjunction with the grant funds, (iii) how the program or initiative will be coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community, and (iv) a process for evaluating the success of the program or initiative.
(8) Programs and initiatives that receive grants under this subsection shall be based on best practices for preventing students from dropping out of school or for increasing the high school completion rate for those students who already have dropped out of school.
(9) Priority for grants shall be given to proposals that demonstrate input from the local community and coordination with other available programs or resources.
(10) Grantees shall assure their compliance with applicable laws and rules regulating conflicts of interest.
(12) Grants shall be made no later than November 1, 2007.

SECTION 7.32.(e) Report. – The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation created in

subsection (f) of this section by December 1, 2007, on the grants awarded under subsection (d) of this section, after which time the Committee shall terminate.

SECTION 7.32.(f) Joint Legislative Commission on Dropout Prevention and High School Graduation. –

(1) There is created the Joint Legislative Commission on Dropout Prevention and High School Graduation (Commission) to be composed of 16 members, eight appointed by the President Pro Tempore of the Senate and eight appointed by the Speaker of the House of Representatives. The President Pro Tempore and the Speaker shall each designate a cochair from their appointees. Vacancies shall be filled in the same manner as the original appointments were made.

(2) The cochairs shall jointly call the first meeting of the Commission. A quorum of the Commission is a majority of its members.

(3) The Commission shall:

a. Evaluate initiatives and programs designed to reduce the dropout rate and increase the number of students who graduate from high school prepared to further their postsecondary education or enter the workforce.

b. Review the research on factors related to students' success in school.

c. Evaluate the grants awarded under subsection (d) of this section and recommend whether any of the programs and initiatives that received one of these grants has potential for success and should be expanded or replicated.

d. Study the emergence of major middle school and high school reform efforts, including Learn and Earn Programs, the New Schools Initiative, and 21st Century Schools, and the impact they may have on the dropout rate.

e. Examine strategies, programs, and support services that should be provided if the compulsory school attendance age is raised to enable students to graduate from high school and time lines for implementing those strategies, programs, and support services.

f. Following a review of the courses required for graduation and the current system of awarding credit for those courses, determine whether changes should be made that better recognize the different learning rates and other needs of students.

g. Determine which interventions and other strategies, such as accelerated learning, tutoring, mentoring, or small class sizes, when employed as a substitute to grade retention or as a subsequent measure to grade retention, are the most effective at enabling these students to remain in school and graduate.

h. Study any other issue that the Commission considers relevant and appropriate.

(4) The Legislative Services Commission, through the Legislative Services Officer, shall assign professional and clerical staff to assist in the work of the Joint Legislative Commission on Dropout Prevention and High School Graduation. The expenses of employment of the

clerical staff shall be borne by the Joint Legislative Commission on Dropout Prevention and High School Graduation.

(5) The Commission may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission, through the Legislative Services Officer, shall grant to the Joint Legislative Commission on Dropout Prevention and High School Graduation adequate meeting space in the State Legislative Building or the Legislative Office Building.

(6) Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

a. Members who are also members of the General Assembly, at the rate established in G.S. 120-3.1;

b. Members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6; and

c. All other members, at the rate established in G.S. 138-5.

(7) The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

(8) The Commission may submit an interim report, including any recommendations and proposed legislation, to the Joint Legislative Education Oversight Committee and the General Assembly by May 1, 2008, and shall submit a final written report of its findings and recommendations on or before the convening of the 2009 Session of the General Assembly. All reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate.

HIGH PRIORITY SCHOOLS

SECTION 7.34.(a) The State Board of Education may develop a policy for a two-year phaseout of the special supplementary funding currently provided to the two remaining high priority elementary schools and may use funds in the ADM Contingency Reserve to support any additional cost of the two-year phaseout.

SECTION 7.34.(b) The State Board of Education shall not use funds appropriated for State Aid to Local Administrative Units to contract with an outside organization to evaluate the high priority schools initiative begun in the 2001-2002 fiscal year. The Board may, however, use up to five hundred thousand dollars ($500,000) previously identified for this purpose to support the ongoing evaluation of the Disadvantaged Student Supplemental Funding Initiative.

DISTANCE EDUCATION

SECTION 7.35. Notwithstanding G.S. 143C-6-4, the State Board of Education may use monies from the State Public School Fund in the 2007-2008 fiscal year only to pay for the additional costs associated with an increased number of registration fees for students enrolling in Distance Education courses.

CHILD NUTRITION

SECTION 7.36A.(a) G.S. 115C-264.3 reads as rewritten:

"§ **115C-264.3. Child Nutrition Program standards.**

The State Board of Education, in direct consultation with a cross section of local directors of child nutrition services, shall establish statewide nutrition standards for school meals, a la carte foods and beverages, and items served in the After School Snack Program administered by the Department of Public Instruction and child nutrition programs of local school administrative units. The nutrition standards will promote gradual changes to increase fruits and vegetables, increase whole grain products, and decrease foods high in total fat, trans fat, saturated fat, and sugar. The nutrition standards adopted by the State Board of Education shall be implemented initially in elementary schools. All elementary schools shall achieve a basic level by the end of the ~~2007-2008~~2008-2009 school year, followed by middle schools and then high schools."

SECTION 7.36A.(b) Local education agencies are encouraged to take steps to implement within existing funds and to the extent possible the nutrition program standards under G.S. 115C-264.3 by the end of the 2007-2008 school year.

SECTION 7.36A.(c) The Child Nutrition Services Section of the Department of Public Instruction, in direct consultation with a cross section of local directors of child nutrition services, shall study how State funds allocated to support the implementation of nutrition standards in elementary schools should be distributed to ensure fair and equitable distribution of available resources. The Child Nutrition Services Section shall report its findings and recommendations to the Joint Legislative Education Oversight Committee during the 2008 Regular Session of the General Assembly.

SECTION 7.36A.(d) The General Assembly urges the Director of the State Budget to include in the proposed Continuation Budget the amount required to ensure that all kindergarten students in schools that meet the eligibility percentage authorized by the State Board of Education receive a free breakfast.

The State Board shall not adjust that eligibility percentage below thirty-nine and four one-hundredths of one percent (39.04%) unless the General Assembly funds an expansion of the program.

FUNDS FOR SCHOOL TECHNOLOGY PILOT

SECTION 7.39.(a) Funds are appropriated in this act to the State Board of Education to be used with a grant of three million dollars ($3,000,000) from the Golden LEAF Foundation and other private sector funds to establish a school technology pilot program. Eight pilot high schools selected by the Golden LEAF Foundation and the Department of Public Instruction shall receive funds to incorporate technology in the classroom. Non-State monies shall fund student and teacher portable computers. The State Board of Education shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division on the results of this pilot program by March 15, 2009. Up to one hundred thousand dollars ($100,000) may be used to contract with an independent research organization to study the effectiveness of this pilot program on student achievement, to complete a cost-benefit analysis, to make recommendations for improvements in the program, and to make recommendations regarding the possible continuance or expansion of the program. The remaining State funds shall be used to:

(1) Assess the network capabilities and connectivity needs at each of the eight pilot sites;

(2) Purchase the additional software, hardware, and other equipment necessary to support this program;

(3) Allow each pilot site to use a maximum of one hundred thirty thousand dollars ($130,000) to establish up to two positions to provide on-site instructional and technical support on a contract basis; and

(4) Provide ongoing professional development to teachers and principals in the pilot schools.

SECTION 7.39.(b) Unused funds at the end of the 2007-2008 fiscal year for this program shall not revert.

ADM CONFORMITY

SECTION 7.40. Section 8 of S.L. 2007-145 is repealed

PART VIII. COMMUNITY COLLEGES

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT

SECTION 8.1.(a) Funds appropriated to the Community Colleges System Office for the College Information System Project shall not revert at the end of the 2006-2007 fiscal year but shall remain available until expended.

SECTION 8.1.(b) Notwithstanding G.S. 143C-6-4, the Community Colleges System Office may, subject to the approval of the Office of State Budget and Management, in consultation with the Office of Information Technology Services, and after consultation with the Joint Legislative Commission on Governmental Operations, use funds appropriated in this act for the College Information System Project to create a maximum of 10 positions or incur expenditures necessary to transfer the maintenance and administration of the College Information System Project from the vendor to the System Office. Personnel positions created pursuant to this subsection shall be located in community colleges across the State.

SECTION 8.1.(c) The Community Colleges System Office shall report on a quarterly basis to the Joint Legislative Education Oversight Committee on the implementation of the College Information System Project.

SECTION 8.1.(d) Subsection (a) of this section becomes effective June 30, 2007.

CARRYFORWARD OF EQUIPMENT FUNDS FOR COMMUNITY COLLEGES

SECTION 8.2.(a) Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community Colleges System Office may carry forward an amount not to exceed ten million dollars ($10,000,000) of the operating funds that were not reverted in fiscal year 2006-2007 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.2.(b) This section becomes effective June 30, 2007.

INSTRUCTIONAL RESOURCE ALLOCATION FORMULA

SECTION 8.3. The State Board of Community Colleges shall develop a new funding formula for library books and related instructional resources before distributing funds appropriated for this purpose for the 2007-2009 fiscal biennium. The revised instructional resource allocation formula shall reflect the availability of online

subscription resources and electronic media and should include a base amount per college.

REPORT ON NCCCS DISTANCE LEARNING AND ONLINE CAPABILITIES

SECTION 8.4. The Community Colleges System Office shall report by March 1, 2008, to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management on its efforts regarding distance learning opportunities. This report shall complement the report authorized by the General Assembly in Part 6 of S.L. 2004-179 and shall address the following:

(1) The expenditure of funds appropriated in this act for bandwidth at community colleges, including a description of each community college's current bandwidth capacity;

(2) A five-year history of the number of courses offered and number of FTE students served through distance learning;

(3) Results from student and instructor evaluations of distance learning courses;

(4) Current and anticipated future joint efforts between the North Carolina Community College System and The University of North Carolina and North Carolina private colleges, regarding distance learning; and

(5) Analysis of necessary changes or enhancements to improve the sharing of distance learning and online opportunities with The University of North Carolina and the Department of Public Instruction.

COMMUNITY COLLEGE FACULTY SALARY PLAN

SECTION 8.5.(a) It is the intent of the General Assembly to establish a community college faculty salary plan that (i) provides accountability to the General Assembly, (ii) maintains local flexibility and autonomy for the community colleges, and (iii) ensures that community college faculty members have a uniform minimum salary based on level of education, equivalent applicable experience, or both.

SECTION 8.5.(b) The minimum salaries for community college faculty shall be based on the following education levels:

(1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.

(2) Associate Degree or Equivalent. – This education level includes faculty members who have an associate degree or have completed two or more years of college but have no degree.

(3) Bachelor's Degree.

(4) Master's Degree or Education Specialist.

(5) Doctoral Degree.

SECTION 8.5.(c) For the 2007-2008 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	$33,314
Associate Degree or Equivalent	$33,805
Bachelor's Degree	$35,931
Master's Degree or Education Specialist	$37,817
Doctoral Degree	$40,537.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 8.5.(d)

(1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:

a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.

b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.

c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.

d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.

e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

Except as provided by subdivision (2) of this subsection, a community college shall not transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by this subsection.

(2) With the approval of the State Board of Community Colleges, a community college at which the average faculty salary is eighty-five percent (85%) or less of the national average may transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by sub-subdivision e. of subdivision (1) of this subsection. The State Board shall approve the transfer only for purposes that directly affect student services.

The State Board of Community Colleges shall adopt guidelines to implement the provisions of this subdivision.

(3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industries to increase faculty salaries.

SECTION 8.5.(e) As used in this section:

(1) "Average faculty salary at a community college" means the total nine-month salary from all sources of all nine-month, full-time, curriculum faculty at the college, as determined by the North Carolina Community College System on October 1 of each year.

(2) "National average community college faculty salary" means the nine-month, full-time, curriculum salary average, as published by the Integrated Postsecondary Education Data System (IPEDS), for the most recent year for which data are available.

SECTION 8.5.(f) The State Board of Community Colleges shall adopt guidelines to implement the provisions of this section.

SECTION 8.5.(g) The State Board of Community Colleges shall report to the appropriations subcommittees on education, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2007, and every year thereafter through December 1, 2009, on the implementation of this section.

STUDY COMMUNITY COLLEGE ACCESS

SECTION 8.6. The Joint Legislative Education Oversight Committee shall conduct a study to determine whether the North Carolina Community College System is appropriately organized to provide adequate geographic access, while minimizing overhead costs. Specifically, the Committee shall review the organization and structure of the Community College System, the number of colleges and satellite campuses within the System, and the location and size of the colleges. The Committee shall also study the State Board of Community Colleges' policy and procedure for approving new programs and whether the State could realize any savings from consolidating high-cost programs at regional locations.

This study shall determine the appropriateness of the current process and criteria outlined in State Board policy for approving multicampus center designations. The Joint Legislative Education Oversight Committee shall specifically consider whether the establishment of additional multicampuses should be subject to General Assembly approval.

The Joint Legislative Education Oversight Committee shall report the results of the study to the General Assembly prior to April 30, 2008.

COMMUNITY COLLEGE CONNECTIVITY FUNDS

SECTION 8.7. In expending funds appropriated for increasing the bandwidth capacity among the colleges of the North Carolina Community College System, the Community Colleges System Office shall seek the best value among information technology providers in order to maximize online instruction, provide accurate data transmission, and utilize video services.

STUDY OF FTE FUNDING FORMULA

SECTION 8.8. The Fiscal Research Division, in consultation with the North Carolina Community College System, shall consider modifications to community college funding formulas to ensure that colleges have sufficient funds to adequately serve students when enrollment increases. In the course of the study, the Fiscal Research Division shall:

(1) Make findings and recommendations for a new formula budget computation for the Basic Skills Block Grant, which has not been reviewed for at least two decades and may be impacted by potential changes in the allocation of federal funds for literacy education through the Workforce Investment Act, Title II;
(2) Consider whether funding for equipment and instructional resources should be incorporated into the FTE funding formula;
(3) Make findings and recommendations regarding the appropriateness of adjusting the "Other Costs" factors in the Instructional and Institutional Support formulas; and
(4) Review the Institutional Support formula to determine whether funding is appropriately allocated between the Base Allotment and Enrollment Allotment.

The Fiscal Research Division shall report the results of its study to the Joint Legislative Education Oversight Committee and to the chairs of the Senate Committee on Appropriations/Base Budget and the House of Representatives Appropriations Committee by April 15, 2008.

REALIGNMENT OF STATE AID ALLOCATIONS

SECTION 8.9. The State Board of Community Colleges shall examine new State Aid allocation options that more closely align the allocation and expenditure of State-appropriated resources. The State Board shall realign the 2007-2008 formula budget computation to incorporate the Academic Support Supplement into the Institutional Support Formula.

COMMUNITY COLLEGE FACILITIES AND EQUIPMENT FUNDS

SECTION 8.10.(a) Funds in the amount of fifteen million dollars ($15,000,000) are appropriated in section 2 of this act for the 2007-2008 fiscal year to the Community College Facilities and Equipment Fund. These funds shall be used to award grants to community colleges for facility and equipment needs. The Community Colleges System Office, in consultation with the State Board of Community Colleges, shall develop a competitive grant application process and guidelines for facility or equipment needs. The State Board of Community Colleges shall award grants on the merit of the applications received. Priority shall be given to projects that (i) are consistent with the college's strategic plan, (ii) have a high potential for promoting economic growth, and (iii) did not receive a grant during the 2006-2007 fiscal year. Also, projects shall be distributed geographically throughout the State. No individual grant may exceed the sum of one million dollars ($1,000,000).

These grants shall be awarded on a matching basis of one State dollar ($1.00) for every one non-State dollar ($1.00).

SECTION 8.10.(b) Beginning September 1, 2007, the Community Colleges System Office shall submit a report to the Office of State Budget and Management and the Fiscal Research Division containing the following information about each grant that was awarded: (i) the name of the community college; (ii) a description of the project; (iii) the project location; (iv) the cost-benefit analysis conducted by the Community Colleges System Office and the rationale for awarding the grant; and (v) the amount of the grant.

USE OF FUNDS FOR CENTRAL CAROLINA COMMUNITY COLLEGE

SECTION 8.13 Funds appropriated by the 2005 General Assembly for equipment and capital improvements for the library at the Harnett County Campus of Central Carolina Community College have not been used for that purpose. Central Carolina Community College may use these funds for a maintenance building on the Harnett County Campus.

PART IX. UNIVERSITIES

NC SCHOOL OF SCIENCE AND MATHEMATICS ENROLLMENT GROWTH FORMULA

SECTION 9.1. The Office of State Budget and Management jointly with The University of North Carolina and the Fiscal Research Division of the General Assembly shall conduct a study to create a formula for enrollment growth at the North Carolina School of Science and Mathematics. This formula shall be used to calculate the amount of funds needed for enrollment growth for the North Carolina School of Science and Mathematics. The formula shall also be used for calculating the enrollment growth funding request to be submitted to the 2008 Session of the North Carolina General Assembly.

REPORTING ON UNC FACULTY WORKLOAD

SECTION 9.2.(a) The Board of Governors of The University of North Carolina shall conduct a study on faculty workload at The University of North Carolina. The study shall be done using the Delaware Study Method of collecting data. Information in the report shall include all of the following:

(1) The faculty workload data for each constituent institution of The University of North Carolina compared to The University of North Carolina enrollment model.

(2) The University of North Carolina faculty workload average as compared to The University of North Carolina enrollment model student credit hours per instructional position.

(3) The faculty workload of regional and peer institutions as compared to each constituent institution faculty average and to The University of North Carolina faculty workload average.

SECTION 9.2.(b) The Board of Governors of The University of North Carolina shall submit the study report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than March 1, 2008.

USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS

SECTION 9.3.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of one hundred three million two hundred forty-three thousand two hundred twenty-six dollars ($103,243,226) for the 2007-2008 fiscal year and the sum of one hundred twenty-four million eight hundred thirty-one thousand two hundred sixteen dollars ($124,831,216) for the 2008-2009 fiscal year. There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars ($13,981,202) for the 2007-2008 fiscal year and the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars ($13,981,202) for the 2008-2009 fiscal year. There is appropriated from the

Escheat Fund income to the Department of Administration, Division of Veterans Affairs, the sum of six million two hundred twenty-eight thousand six hundred thirty-three dollars ($6,228,633) for the 2007-2008 fiscal year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars ($6,520,964) for the 2008-2009 fiscal year. The funds appropriated by this subsection shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

If the interest income generated from the Escheat Fund is less than the amounts referenced in this subsection, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this subsection; however, under no circumstances shall the Escheat Fund principal be reduced below the sum of four hundred million dollars ($400,000,000).

SECTION 9.3.(b) The North Carolina State Education Assistance Authority (SEAA) shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the Scholarship Programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and the Community College System regarding the respective scholarship programs, and then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 9.3.(c) There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of one million one hundred fifty-seven thousand dollars ($1,157,000) for the 2007-2008 fiscal year and the sum of one million one hundred fifty-seven thousand dollars ($1,157,000) for the 2008-2009 fiscal year to be allocated to the SEAA for need-based student financial aid to be used in accordance with G.S. 116B-7 and this act. The SEAA shall use these funds only to provide scholarship loans (known as the Millennium Teaching Scholarship Loan Program) to North Carolina high school seniors interested in preparing to teach in the State's public schools who also enroll at any of the Historically Black Colleges and Universities that do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred dollars ($6,500) each shall be given to Elizabeth City State University, Fayetteville State University, and Winston-Salem State University, the three universities without any Teaching Fellows, for the purposes specified in this subsection. The SEAA shall administer these funds and shall establish any additional criteria needed to award these scholarship loans, the conditions for forgiving the loans, and the collection of the loan repayments when necessary.

SECTION 9.3.(d) All obligations to students for uses of the funds set out in this section that were made prior to the effective date of this section shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS

SECTION 9.4.(a) Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.9. Board of Governors' Medical Scholarship Loan Program.**

(a) Administration of Medical Scholarship Loan Program. – The Board of Governors' Medical Scholarship Loan Program was established by the Board of Governors of The University of North Carolina. The Board of Governors' Medical

Scholarship Loan Program operates under the purview of the Board of Governors and is administered by the Board of Governors.

(b) Medical Scholarship Loan Program. – Pursuant to this section, the Board of Governors' Medical Scholarship Loan Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers, and an annual stipend of five thousand dollars ($5,000) per year to any student who has been accepted for admission to the Duke University School of Medicine, the Brody School of Medicine at East Carolina University, the University of North Carolina at Chapel Hill School of Medicine, or the Wake Forest University School of Medicine.

(c) Criteria for Awarding Scholarship Loans. – The Board of Governors may adopt standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board of Governors shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program.

(d) Terms of Scholarship Loans. – All awards made under this section shall be made as scholarship loans and shall be evidenced by notes made payable to the Board of Governors that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board of Governors. The Board of Governors shall forgive the loan if, within seven years after graduation, the recipient practices medicine in North Carolina for four years. The Board of Governors shall also forgive the loan if it finds that it is impossible for the recipient to practice medicine in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

(e) Reversions. – All unused funds appropriated to or otherwise received by the Board of Governors for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

SECTION 9.4.(b) This section becomes effective July 1, 2007, and applies to all awards from the Board of Governors' Medical Scholarship Program made to students admitted into medical school on or after July 1, 2007.

BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS

SECTION 9.5.(a) Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-40.10. Board of Governors' Dental Scholarship Loan Program.**

(a) Administration of Dental Scholarship Program. – The Board of Governors' Dental Scholarship Loan Program was established by the Board of Governors of The University of North Carolina. The Board of Governors' Dental Scholarship Loan Program operates under the purview of the Board of Governors and is administered by the Board of Governors.

(b) Dental Scholarship Loan Program. – Pursuant to this section, the Board of Governors' Dental Scholarship Loan Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers to any first-year students, required dental equipment, and an annual stipend of five thousand dollars ($5,000) per year to any student who has been accepted for admission to the School of Dentistry at the University of North Carolina at Chapel Hill.

(c) Criteria for Awarding Scholarship Loans. – The Board of Governors may adopt standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board of Governors shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program.

(d) Terms of Scholarship Loans. – All awards made under this section shall be made as scholarship loans and shall be evidenced by notes made payable to the Board that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board of Governors. The Board of Governors shall forgive the loan if, within seven years after graduation, the recipient practices dentistry in North Carolina for four years. The Board of Governors shall also forgive the loan if it finds that it is impossible for the recipient to practice dentistry in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

(e) Reversions. – All unused funds appropriated to or otherwise received by the Board for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

SECTION 9.5.(b) This section becomes effective July 1, 2007, and applies to all awards from the Board of Governors' Dental Scholarship Program made to students admitted to the School of Dentistry at the University of North Carolina at Chapel Hill on or after July 1, 2007.

GRADUATE NURSE SCHOLARSHIP LOANS FOR FULL-TIME NURSING FACULTY IN THE NC COMMUNITY COLLEGE SYSTEM

SECTION 9.6.(a) G.S. 90-171.100 reads as rewritten:

"§ **90-171.100. Graduate Nurse Scholarship Program for Faculty Production established; administration.**

(a) There is established the Graduate Nurse Scholarship Program for Faculty Production. The North Carolina Nursing Scholars Commission shall determine selection criteria, methods of selection, and shall select recipients of scholarship loans made under the Graduate Nurse Scholarship Program for Faculty Production.

(b) The Graduate Nurse Scholarship Program for Faculty Production shall be used to provide the following:

(1) A scholarship loan for up to two years in the amount of fifteen thousand dollars ($15,000) per year, per recipient, to students enrolled in a masters degree program in nursing education or any other area of the nursing field that would permit them to become a nursing instructor at a North Carolina community college or university.

(2) A scholarship loan for up to three years in the amount of fifteen thousand dollars ($15,000) per year, per recipient, to students enrolled in a doctoral degree program in nursing education or any other area of the nursing field that would permit them to become a nursing instructor at a North Carolina community college or university.

(3) A scholarship loan for up to two years in the amount of fifteen thousand dollars ($15,000) per year, per recipient, to nursing faculty in

the North Carolina Community College System enrolled in a master's degree program in nursing education.

(b1) The State Education Assistance Authority shall adopt specific rules to regulate these scholarship loans.

(c) If a recipient is awarded a scholarship loan under this program and is enrolled, or accepted for enrollment, in an eligible program, but is unable to pursue the course of study in nursing for a semester due to limited faculty resources at the institution for that semester, then the recipient shall continue to receive the scholarship loan for that semester and shall not be required to forfeit or repay the scholarship loan for that semester, provided that the recipient remains otherwise eligible for the program. This waiver shall be valid for only one semester of study and may extend a recipient's eligibility for funding under the program by no more than one semester.

(d) The Commission shall adopt stringent standards, which may include minimum grade point average, scholastic aptitude test scores, and other standards deemed appropriate by the Commission, to ensure that only the best potential students receive loans under the Graduate Nurse Scholarship Program for Faculty Production. Standards adopted by the Commission shall include provisions for ensuring that the qualifications of applicants who are or would be nontraditional students are considered fairly in providing them with opportunities to compete for the loans. Standards adopted by the Commission shall also provide that community college nursing faculty receive preference in awarding scholarship loans under this section. Loans under the Graduate Nurse Scholarship Program for Faculty Production shall be awarded only to applicants who meet the standards set by the Commission and who agree to teach in a North Carolina public or private nursing program upon completion of the nursing education program supported by the loan. If a recipient under this section is a nursing faculty member at a community college, then as a condition of a scholarship loan received under G.S. 90-171.100(b)(3), the recipient shall agree to continue to work for the community college system in North Carolina as provided in G.S. 90-171.101(b).

(e) The Commission shall develop and administer the Graduate Nurse Scholarship Program for Faculty Production in cooperation with nursing schools at institutions approved by the Commission and the North Carolina Board of Nursing. The Graduate Nurse Scholarship Program for Faculty Production shall provide for participants to be exposed to a range of extracurricular activities while in school, which activities shall be aimed at instilling in students a strong motivation to remain in the practice of nursing education and to provide leadership for the nursing profession.

(f) The Commission shall make an effort to identify and encourage minority students and students who may not otherwise consider a career in nursing to apply for the Graduate Nurse Scholarship Program for Faculty Production.

(g) Upon the naming of recipients of loans from the Graduate Nurse Scholarship Program for Faculty Production, the Commission shall inform the State Education Assistance Authority (SEAA) of its decisions. The SEAA shall perform all of the administrative functions necessary to implement this Article, which functions shall include: rulemaking, dissemination of information to the public, distribution and receipt of applications for scholarship loans, and the functions necessary for the execution, payment, and enforcement of promissory notes required under this Article."

SECTION 9.6.(b) G.S. 90-171.101(b) reads as rewritten:

"(b) The State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient teaches in a public or private nursing education program in a public or private educational

institution in North Carolina for one year for every year a scholarship loan was ~~provided.~~ provided; unless the recipient was a nursing faculty member of a community college. In those circumstances, the State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient teaches in a community college nursing education program in North Carolina for one year for every year a scholarship loan was provided. If the recipient repays the scholarship loan by cash payments, all indebtedness shall be repaid within 10 years. The Authority may provide for accelerated repayment and for less than full-time employment options to encourage the practice of nursing education in either geographic or nursing specialty shortage areas. The Authority shall adopt specific rules to designate these geographic areas and these nursing specialty shortage areas, upon recommendations of the North Carolina Center for Nursing. The North Carolina Center for Nursing shall base its recommendations on objective information provided by interested groups or agencies and upon objective information collected by the Center. The Authority may forgive the scholarship loan if it determines that it is impossible for the recipient to teach in a public or private nursing ~~program~~ program, or in a community college nursing program if that was a condition of the scholarship loan, in North Carolina for a sufficient time to repay the loan because of the death or permanent disability of the recipient within 10 years following graduation or termination of enrollment in a nursing education program."

ESTABLISH THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND (EARN)

SECTION 9.7.(a) Article 23 of Chapter 116 of the General Statutes is amended by adding the following new section to read:

"**§ 116-209.26. Education Access Rewards North Carolina Scholars Fund.**

(a) The following definitions apply to this section:

(1) Academic year. – A period of time in which a student in matriculated status is expected to complete the equivalent of at least two semesters' or three quarters' academic work.

(2) Eligible postsecondary institution. – A school that is:

a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4); or

b. A community college as defined in G.S. 115D-2(2).

(3) Matriculated status. – Being recognized as a first-time candidate for a degree or certificate, exclusive of any course credits earned while in high school, in a defined program of study at an eligible postsecondary institution.

(4) Title IV. – Title IV of the Higher Education Act of 1965, as amended.

(b) There is established the Education Access Rewards North Carolina Scholars Fund. The purpose of the Fund is to provide grants to certain eligible students to enable them to obtain an education beyond the high school level at certain postsecondary institutions in North Carolina without incurring student loans to meet their financial need during the first two years of their postsecondary education. The State Education Assistance Authority (SEAA) shall administer the Fund.

(c) Criteria for awarding the grants shall be developed by the SEAA and include all of the following:

(1) The student must qualify as a legal resident of North Carolina, a legal resident of the United States, and as a resident for tuition purposes in accordance with G.S. 116-143.1.

(2) Within seven months of the fiscal year in which the grant is to be disbursed, the student must have:

a. Graduated from a North Carolina high school;

b. Received a General Education Development (GED) certificate from a North Carolina institution; or

c. Completed a high school education in a home school setting meeting the qualifications and requirements under G.S. 115C-564.

(3) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status on a full-time basis at an eligible postsecondary institution in North Carolina.

(4) The student must be an eligible dependent student. For purposes of this subdivision, an "eligible dependent student" is a student who:

a. Either is classified as dependent for the Title IV programs or is a ward or dependent of the court; and

b. Demonstrates total family income not exceeding two hundred percent (200%) of the applicable federal poverty guideline, according to standards set by the SEAA and measured using data elements available to the SEAA from the Free Application for Federal Student Aid (FAFSA) or such other source as the SEAA may deem appropriate.

(5) The student must meet all other eligibility requirements for the federal Pell Grant.

(6) In order to retain eligibility for a grant for the student's second academic year, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for Title IV programs by the eligible postsecondary institution in which the student is enrolled.

(7) The student may not receive a grant in an amount that, when combined with the federal Pell Grant, exceeds the student's cost of attendance as defined under Title IV.

(8) The student may not receive a grant under this section for more than the equivalent of two academic years.

(d) The maximum grant for which a student is eligible under this section shall be four thousand dollars ($4,000) per academic year. In the event there are not sufficient funds to provide each eligible student with the maximum grant, it is the intent of the General Assembly that eligible students who have matriculated into an eligible postsecondary institution in North Carolina with at least one academic year of college credit receive the maximum grant amount and all other eligible students shall receive a reduced grant amount.

(e) The grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the SEAA not inconsistent with this section.

(f) The State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee by December 1, 2009, and by each December 1 thereafter, regarding the Fund and grants awarded from the Fund.

(g) Grant funds unexpended shall remain available to the SEAA for future grants to be awarded under this section."

SECTION 9.7.(b) There is appropriated from the General Fund to the State Education Assistance Authority the sum of twenty-seven million six hundred five thousand two hundred ten dollars ($27,605,210) for the 2007-2008 fiscal year and the sum of sixty million dollars ($60,000,000) for the 2008-2009 fiscal year.

SECTION 9.7.(c) There is appropriated from the Escheat Fund to the State Education Assistance Authority the sum of forty million dollars ($40,000,000) for the 2008-2009 fiscal year. Notwithstanding any other provision of law, no funds shall be used from the Escheat Fund until all monies from the General Fund appropriated under Section 9.7(c) have been exhausted.

SECTION 9.7.(d) The Director of the Budget shall include the amount necessary to fully fund the EARN grants for all eligible students in the 2009-2011 continuation budget.

MANAGEMENT FLEXIBILITY TO REORGANIZE BUDGET CODE 16012 UNC BOARD OF GOVERNORS RELATED EDUCATIONAL PROGRAMS

SECTION 9.8.(a) Notwithstanding G.S. 143C-6-4, for the 2007-2008 fiscal year, the General Administration of The University of North Carolina and the State Educational Assistance Authority shall, with the approval of the Office of State Budget and Management, reorganize budget code 16012, UNC Board of Governors Related Educational Programs, so that the budget reflects and segregates each specific program individually. The Office of State Budget and Management shall work with the University of North Carolina General Administration and the State Educational Assistance Authority to ensure that each program represented in code 16012 is identified and budgeted separately.

SECTION 9.8.(b) The University of North Carolina General Administration shall report the new budget structure for budget code 16012, as approved by the Office of State Budget and Management, to the Fiscal Research Division of the General Assembly no later than March 31, 2008.

FUTURE TEACHERS OF NC SCHOLARSHIP LOAN PROGRAM

SECTION 9.9. G.S. 116-209.38(a) reads as rewritten:

"(a) There is established the Future Teachers of North Carolina Scholarship Loan Fund. The purpose of the Fund is to provide a two-year scholarship loan of six thousand five hundred dollars ($6,500) per year for any North Carolina student pursuing a college degree to teach in the public schools of the State. The scholarship loan shall be paid only for the student's junior and senior years. The scholarship loan is available if the student is enrolled in a State institution of higher education or a private institution of higher education located in this State that has an accredited teacher preparation program for students planning to become certified teachers in North Carolina. The State Education Assistance Authority shall administer the Fund and shall award ~~100~~ 150 scholarship loans annually."

PRINCIPALS' EXECUTIVE PROGRAM

SECTION 9.10.(a) The operating budget of the Principals' Executive Program (PEP) is appropriated on a nonrecurring basis for the 2007-2009 fiscal biennium until the General Assembly receives data showing the program has a positive, measurable impact on conditions for teaching and learning in schools.

SECTION 9.10.(b) The Principals' Executive Program shall develop a formalized admissions policy that does all of the following:

(1) Gives priority to school administrators working in high-need schools so that State resources are targeted to those who most need support.

(2) Takes into account geographic diversity to ensure that school administrators statewide are served. If more school administrators seek admission than slots are available, the Principals' Executive Program shall retain those names and offer priority admission to those on the waiting list for the next class. The Principals' Executive Program shall also use these waiting lists to assess demand and determine how best to allocate resources among the various executive training courses.

SECTION 9.10.(c) The State Board of Education and the Board of Governors of The University of North Carolina shall recommend to the Joint Legislative Education Oversight Committee a plan to provide input on the Principals' Executive Program's priorities and feedback on its performance. This plan shall be presented no later than April 1, 2008.

REPEAL NORTH CAROLINA PROGRESS BOARD

SECTION 9.11. Part 2A of Article 9 of Chapter 143B of the General Statutes is repealed.

REVERT MOTORSPORTS CAPITAL ACCOUNT

SECTION 9.12. Effective June 30, 2007, the unencumbered balance of the funds appropriated to the NC Motor Sports Testing and Research Complex in Section 32.1 of S.L. 2004-124, as amended by Section 3 of S.L. 2004-184, shall revert to the General Fund.

LEGISLATIVE TUITION GRANT FOR PART-TIME STUDENTS

SECTION 9.13.(a) G.S. 116-21.2 reads as rewritten:

"§ **116-21.2. Legislative tuition grants to aid students and licensure students attending private institutions of higher education.**

(a) Grants for Students. – In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to institutions, or to persons attending these institutions, there is granted to each ~~full-time~~ North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, to be determined by the General Assembly for each academic year which shall be distributed to the ~~full-time~~ undergraduate student as provided by this subsection. A full-time North Carolina undergraduate student shall be awarded the full amount of the tuition grant provided by this section. A part-time North Carolina undergraduate student who is enrolled to take at least nine hours of academic credit per semester shall be awarded a tuition grant in an amount that is calculated on a pro rata basis.

(a1) Grants for Licensure Students. – The legislative tuition grant provided by this section shall also be granted to each full-time licensure student who is enrolled in a program intended to result in a license in teaching or nursing at an approved institution.

The legislative tuition grant provided by this section shall be awarded on a pro rata basis to any part-time licensure student who is enrolled ~~less than full-time~~ to take at least nine hours of undergraduate academic credit per semester in a program intended to result in a license in teaching or nursing at an approved institution. The legislative tuition grant and prorated legislative tuition grant authorized under this subsection shall be paid for undergraduate courses only. If a course is required for licensure, but is designated as both an undergraduate and graduate course, for purposes of this subsection, the course shall be considered an undergraduate course.

(b) Administration of Grants. – The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student or licensure student applying for the grant is eligible. Upon receipt of the certification, the State Education Assistance Authority shall remit at the times as it prescribes the grant to the approved institution on behalf, and to the credit, of the student or licensure student.

(c) Student or Licensure Student Change of Status; Audits. – ~~Except as provided in subsection (a1) of this section, in~~ In the event a full-time student on whose behalf a grant has been paid in accordance with subsection (a) of this section or a full-time licensure student on whose behalf a grant has been paid in accordance with subsection (a1) of this section is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. If a part-time student on whose behalf a prorated grant has been paid in accordance with subsection (a) of this section or a part-time licensure student on whose behalf a prorated grant has been paid in accordance with subsection (a1) of this section is not enrolled and carrying a minimum academic load of nine credit hours per semester in the undergraduate class as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. If the matriculated status of a full-time student or a full-time licensure student changes to a matriculated status of part-time student or part-time licensure student by the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund only the difference between the amount of the full-time grant awarded and the amount of the part-time grant that is awarded pursuant to this section. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and licensure students and credited grants paid on behalf of them.

(d) Shortfall. – In the event there are not sufficient funds to provide each eligible student or licensure student with a full or prorated grant as provided by subsection (a) of this section or a full or a prorated grant as provided by subsection (a1) of this section:

(1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a), (a1), and (b) of this section; and

(2) Each eligible student and licensure student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

(e) Reversions. – Any remaining funds shall revert to the General Fund."

SECTION 9.13.(b) G.S. 116-43.5 reads as rewritten:

"§ **116-43.5. State grants to aid eligible students attending certain private institutions of higher education; administrative procedure.**

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

(1) "Institution" means a nonprofit educational institution with a main permanent campus located in this State that satisfies all of the following:

a. Is not owned or operated by the State of North Carolina or by an agency or political subdivision of the State or by any combination thereof.

b. Is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association.

c. Awards a postsecondary degree as defined in G.S. 116-15.

d. Its students are not eligible for a similar State grant under another State program.

(1a) "Licensure student" means a person who:

a. Has a bachelor's degree;

b. Is enrolled either full-time or less than full-time in a program intended to result in licensure in teaching or nursing;

c. Attends an institution located in the State; and

d. Qualifies as a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina and published in the residency manual of the Board.

(2) "Main permanent campus" means a campus that is owned by the institution that provides permanent on-premises housing, food services, and classrooms with full-time faculty members and administration that engage in postsecondary degree activity as defined in G.S. 116-15.

(3) "Student" means a person enrolled in and attending an institution located in the State (i) who qualifies as a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina and published in the residency manual of the Board, and (ii) who has not received a bachelors degree, or qualified therefore, and who is otherwise classified as an undergraduate under such regulations as the Board of Governors of The University of North Carolina may promulgate. Qualification for in-State tuition under G.S. 116-143.3 makes a person a "student" as defined in this subdivision.

(b) ~~Eligibility.~~Eligibility of Students. – A student is eligible for a State grant under this section for an academic year if the student is a ~~full-time~~ North Carolina undergraduate student attending an institution as defined by this section and is not eligible for a similar State grant under another State program for the same academic year. A full-time North Carolina undergraduate student shall be eligible for the full amount of the State grant provided by this section. A part-time North Carolina undergraduate student who is enrolled to take at least nine hours of academic credit per semester shall be eligible for a State grant under this section calculated on a pro rata basis.

(b1) Eligibility of Licensure Students. – Each full-time licensure student who is enrolled in a program intended to result in a license in teaching or nursing shall also be eligible for the State grant provided by this section. The State grant provided by this section shall be paid on a pro rata basis to any part-time licensure student who is enrolled to take at least nine hours of undergraduate academic credit per semester in a program intended to result in a license in teaching or nursing at an approved institution. The State grant and prorated State grant authorized under this subsection shall be paid for undergraduate courses only. If a course is required for licensure, but is designated as both an undergraduate and graduate course, for purposes of this subsection, the course shall be considered an undergraduate course.

(c) Administration. – The State grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall pay the State grant to each student eligible under this section. The amount of the grant shall be determined by the General Assembly. The State grant shall be paid to a student only after the student completes the academic year. The grant shall be paid directly to the student on or after July 1 following the completion of the academic year. The State Education Assistance Authority shall not remit any grant until it receives proper certification from an institution that the student applying for the grant is an eligible student.

(d) Shortfall. – In the event there are not sufficient funds to provide each eligible student with a full ~~grant:~~grant or prorated grant:

(1) Each ~~eligible~~ full-time student or full-time licensure student eligible for a full grant under this section shall receive a pro rata share of funds for the full grant then available for the appropriate academic year within the fiscal period covered by the current appropriation.

(2) Each part-time student or part-time licensure student eligible for a prorated grant under this section shall receive a pro rata share of the funds for the prorated grant then available for the appropriate academic year within the fiscal period covered by the current appropriation.

(e) Reversion. – Any remaining funds shall revert to the General Fund.

(f) Reduction of Grant Amount for Certain Students. – A State grant authorized by this act shall be reduced by twenty-five percent (25%) for any individual student who has completed 140 semester credit hours or the equivalent of 140 semester credit hours.

(f1) Student and Licensure Student Enrollment Documented. – The State Education Assistance Authority shall document the number of full-time equivalent and part-time North Carolina undergraduate students and the number of licensure students that are enrolled in private institutions and the State funds collected by students and licensure students at each institution under this section. The State Education Assistance Authority shall report those findings to the Secretary of Administration, the House and Senate Appropriations Subcommittees on Education, and the Joint Legislative Education Oversight Committee.

(g) Limitation on Expenditures. – The State grant shall not be used for any student who:

(1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or

(2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years."

UNC ITEMIZED BUDGET REQUEST FOR 2009-2011 FISCAL BIENNIUM

SECTION 9.16.(a) For the 2009-2010 fiscal year and for the 2010-2011 fiscal year, the Board of Governors of The University of North Carolina shall submit an itemized budget request to the Director of the Budget for each of the constituent institutions, affiliated entities, and General Administration. The request shall contain the following information:

(1) A description of State-funded activities and a justification for the existence of each activity as aligned with the mission of The University of North Carolina.

(2) An itemized account of expenditures by personnel and nonpersonnel costs required to maintain the activity at the current level of service.

(3) An itemized account of progress made toward implementation of recommendations of the President's Advisory Committee on Efficiency and Effectiveness (PACE) and additional recommendations proposed and implemented by the chancellors of the constituent institutions.

(4) An itemized account of actual PACE cost savings and cost avoidance and the uses of the repurposed funds.

(5) A request for total required expenditures for the 2009-2010 fiscal year and for the 2010-2011 fiscal year showing increases and decreases that are properly and correctly aligned to reflect how the funds are to be expended for each activity.

SECTION 9.16.(b) The requirements of this section are in addition to those imposed by Chapter 143C of the General Statutes and G.S. 116-11.

ESTABLISH THE JOHN B. MCLENDON LEADERSHIP AWARDS

SECTION 9.18.(a) Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-209.40. John B. McLendon Scholarship Fund.**

(a) Fund Established. – The John B. McLendon Scholarship Fund is established as a special fund. The Fund shall be administered by the State Education Assistance Authority.

(b) Fund Earnings, Assets, and Balances. – Interest on the Fund shall be credited to the assets of the Fund and shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year.

(c) Fund Purpose. – The interest from the Fund shall be used to provide two leadership scholarships, one for a male athlete student and one for a female athlete student, at each of North Carolina's Historically Black Colleges and Universities that are accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association, except that Bennett College shall receive funding for two leadership scholarships for two female athlete students. The scholarships shall be awarded on an annual basis pursuant to this section. The amount of each scholarship shall be one thousand two hundred fifty dollars ($1,250) per academic year.

(d) Eligibility Requirements for a Scholarship. – To be eligible to receive a scholarship under this section, a student must meet all of the following requirements:

(1) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an Historically Black College or University that is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association.

(2) The student must be an athlete participating on a varsity team at the college or university.

(3) The student must demonstrate outstanding leadership qualities, be involved in the college or university community, and maintain high academic standards.

(4) The student must be designated as a recipient for the scholarship by the college or university at which the student has matriculated status.

(e) College or University Recommendations for Scholarship Recipients. – The Chancellor or President, as appropriate, and the Board of Trustees of each Historically Black College or University may designate students as recipients of the John B. McLendon Scholarships under this section.

(f) Rule-Making Authority. – The State Education Assistance Authority may adopt rules to administer this Fund.

(g) Reporting Requirement. – The State Education Assistance Authority shall report no later than June 1, 2008, and annually thereafter to the Joint Legislative Education Oversight Committee regarding the scholarships awarded pursuant to this section."

SECTION 9.18.(b) Of the funds appropriated by this act to the State Education Assistance Authority for the 2007-2008 fiscal year the sum of five hundred thousand dollars ($500,000) shall be allocated to the John B. McLendon Scholarship Fund established by G.S. 116-209.40, as enacted by subsection (a) of this section.

SECTION 9.18.(c) This section becomes effective July 1, 2007; however, no scholarship shall be awarded under this section prior to the academic year of 2008-2009.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

PHYSICIAN SERVICES

SECTION 10.1. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

LIABILITY INSURANCE

SECTION 10.2.(a) The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars ($1,000,000) per incident on behalf of employees of

the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

SECTION 10.2.(b) The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

SECTION 10.2.(c) The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

FUNDS FOR JIM "CATFISH" HUNTER CHAPTER OF THE ALS ASSOCIATION

SECTION 10.3. Funds appropriated in this act for the Jim "Catfish" Hunter Chapter of the ALS Association shall be expended only for services provided within North Carolina.

DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES

SECTION 10.4. Subject to rules adopted by the State Controller, an employee of the Department of Health and Human Services may authorize, in writing, the periodic deduction from the employee's salary or wages for employment by the State, a designated lump sum to be paid to satisfy the cost of services received for child care provided by the Department.

NON-MEDICAID REIMBURSEMENT CHANGES

SECTION 10.5. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

DSB Medical Eye Care	125% FPL
DSB Independent Living <55	125% FPL
DSB Independent Living 55>	200% FPL
DSB Vocational Rehabilitation	125% FPL
DVR Independent Living	125% FPL
DVR Vocational Rehabilitation	125% FPL

The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income (% of poverty)	State Participation	Client Participation
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

COMMUNITY HEALTH CENTER CHANGES

SECTION 10.6.(a) Of the funds appropriated in this act for Community Health Grants, the sum of two million dollars ($2,000,000) in recurring funds and the sum of five million dollars ($5,000,000) in nonrecurring funds for the 2007-2008 fiscal year, and the sum of two million dollars ($2,000,000) for the 2008-2009 fiscal year shall be allocated to federally qualified health centers and those health centers that meet the criteria for federally qualified health centers, State-designated rural health centers, free clinics, public health departments, school-based health centers, and other nonprofit organizations that provide primary and preventative medical services to uninsured or medically indigent patients to:

(1) Increase access to preventative and primary care services by uninsured or medically indigent patients in existing or new health center locations;
(2) Establish community health center services in counties where no such services exist;
(3) Create new services or augment existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health; and
(4) Increase capacity necessary to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

Grant funds may not be used to enhance or increase compensation or other benefits of personnel, administrators, directors, consultants, or any other parties. Grant funds may not be used to supplant federal funds traditionally received by federally qualified community health centers and may not be used to finance or satisfy any existing debt. In distributing funds, the Department of Health and Human Services shall consider the availability of other funds for the agency, the incidence of poverty or indigent clients served, arrangements for after-hours care, and collaboration with the applicant's community hospital and other safety-net organizations.

SECTION 10.6.(a1) Notwithstanding subsection (a) of this section, of the funds allocated in this section for the 2007-2008 fiscal year, the sum of three hundred seventy-five thousand dollars ($375,000) shall be used to provide a cost of operations increase to eligible school-based and school-linked adolescent health centers.

SECTION 10.6.(b) The Office shall work with the North Carolina Community Health Center Association (hereafter "NCCHCA") and the North Carolina Public Health Association (hereafter "NCPHA") to establish an advisory committee to develop an objective and equitable process for awarding grant funds. The Office shall also develop auditing and accountability procedures. Not more than one percent (1%) of the funds appropriated in this section may be used to reimburse the Office for administering the grant program in collaboration with the NCCHCA and the NCPHA.

SECTION 10.6.(c) Recipients of grant funds shall provide to the Office annually a written report detailing the number of additional uninsured and medically indigent patients that are cared for, the types of services that were provided, and any other information requested by the Office as necessary for evaluating the success of the grant program.

SECTION 10.6.(d) The Office shall work with the NCCHCA and NCPHA to study and present recommendations for continuing funds to support the expansion of community health centers, State-designated rural health centers, and public health departments to serve more of the State's uninsured and indigent population. The Office shall submit the report to the 2008 Regular Session of the 2007 General Assembly upon its convening.

FUNDS TO ASSIST RURAL HOSPITALS

SECTION 10.7. Of the funds appropriated in this act to the Department of Health and Human Services, Office of Rural Health and Community Care, the sum of two million dollars ($2,000,000) for the 2007-2008 fiscal year shall be allocated to small rural hospitals in need of assistance with the operations and infrastructure maintenance of the hospital. These funds may be used for:

(1) Capital and operational needs of small rural hospitals. The Office of Rural Health and Community Care shall convene an advisory group to establish criteria for distribution of these funds. The criteria shall include the number of indigent patients served, the number of Medicaid recipients served, the per capita income of the area served by the hospital, and the financial needs of the hospital; and

(2) Pilot demonstration programs that address issues critical to the long-term survivability of rural hospitals such as: development of regional care networks for mental health services; restructuring of emergency department and outpatient services; and disease-focused regional referral and care networks. The Office of Rural Health and Community Care shall convene an advisory group to establish criteria for the pilot demonstration projects, distribution of funds, and monitoring and evaluation of the pilot projects.

The Office of Rural Health and Community Care shall report on the allocation of funds appropriated under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than March 1, 2008.

TRANSFER SHIIP FUNDS TO DEPARTMENT OF INSURANCE

SECTION 10.8. Of the funds appropriated in this act to the Department of Health and Human Services, Office of Rural Health and Community Care, the sum of two hundred fifty thousand dollars ($250,000) for the 2007-2008 fiscal year shall be transferred to the Department of Insurance. These funds shall be allocated by the Department of Insurance to the Seniors Health Insurance Information Program (SHIIP) to provide additional resources for community-based outreach and enrollment efforts to assist seniors in enrollment in the NCRx Program and Medicare Part D.

COLLABORATION AMONG DEPARTMENTS OF ADMINISTRATION, HEALTH AND HUMAN SERVICES, JUVENILE JUSTICE AND DELINQUENCY PREVENTION, AND PUBLIC INSTRUCTION ON SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE

SECTION 10.9.(a) School-Based Child and Family Team Initiative established. –

(1) Purpose and duties. – There is established the School-Based Child and Family Team Initiative. The purpose of the Initiative is to identify and coordinate appropriate community services and supports for children at risk of school failure or out-of-home placement in order to address the physical, social, legal, emotional, and developmental factors that affect academic performance. The Department of Health and Human Services, the Department of Public Instruction, the State Board of Education, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and other State agencies that provide services for children shall share responsibility and accountability to improve outcomes for these children and their families. The Initiative shall be based on the following principles:

a. The development of a strong infrastructure of interagency collaboration;

b. One child, one team, one plan;
c. Individualized strengths-based care;
d. Accountability;
e. Cultural competence;
f. Children at risk of school failure or out-of-home placement may enter the system through any participating agency;
g. Services shall be specified, delivered, and monitored through a unified Child and Family Plan that is outcome-oriented and evaluation-based;
h. Services shall be the most efficient in terms of cost and effectiveness and shall be delivered in the most natural settings possible;
i. Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable, permanent home, their schools, and their community; and
j. Families and consumers shall be involved in decision making throughout service planning, delivery, and monitoring.

(2) Program goals and services. – In order to ensure that children receiving services are appropriately served, the affected State and local agencies shall:
a. Increase capacity in the school setting to address the academic, health, mental health, social, and legal needs of children.
b. Ensure that children receiving services are screened initially to identify needs and assessed periodically to determine progress and sustained improvement in educational, health, safety, behavioral, and social outcomes.
c. Develop uniform screening mechanisms and a set of outcomes that are shared across affected agencies to measure children's progress in home, school, and community settings.
d. Promote practices that are known to be effective based upon research or national best practice standards.
e. Review services provided across affected State agencies to ensure that children's needs are met.
f. Eliminate cost shifting and facilitate cost-sharing among governmental agencies with respect to service development, service delivery, and monitoring for participating children and their families.
g. Participate in a local memorandum of agreement signed annually by the participating superintendent of the local LEA, directors of the county departments of social services and health, director of the local management entity, the chief district court judge, and the chief district court counselor.

(3) Local level responsibilities. – In coordination with the North Carolina Child and Family Leadership Council (Council), the local board of education shall establish the School-Based Child and Family Team Initiative (Initiative) at designated schools and shall appoint the Child and Family Team Leaders who shall be a school nurse and a school social worker. Each local management entity that has any selected

schools in its catchment area shall appoint a Care Coordinator, and any department of social services that has a selected school in its catchment area shall appoint a Child and Family Teams Facilitator. The Care Coordinators and Child and Family Team Facilitators shall have as their sole responsibility working with the selected schools in their catchment areas and shall provide training to school-based personnel, as required. The Child and Family Team Leaders shall identify and screen children who are potentially at risk of academic failure or out-of-home placement due to physical, social, legal, emotional, or developmental factors. Based on the screening results, responsibility for developing, convening, and implementing the Child and Family Team Initiative is as follows:

a. School personnel shall take the lead role for those children and their families whose primary unmet needs are related to academic achievement.
b. The local management entity shall take the lead role for those children and their families whose primary unmet needs are related to mental health, substance abuse, or developmental disabilities and who meet the criteria for the target population established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
c. The local department of public health shall take the lead role for those children and their families whose primary unmet needs are health-related.
d. Local departments of social services shall take the lead for those children and their families whose primary unmet needs are related to child welfare, abuse, or neglect.
e. The chief district court counselor shall take the lead for those children and their families whose primary unmet needs are related to juvenile justice issues.

A representative from each named or otherwise identified publicly supported children's agency shall participate as a member of the Team as needed. Team members shall coordinate, monitor, and assure the successful implementation of a unified Child and Family Plan.

(4) Reporting requirements. – School-Based Child and Family Team Leaders shall provide data to the Council for inclusion in their report to the North Carolina General Assembly. The report shall include the following:

a. The number of and other demographic information on children screened and assigned to a team and a description of the services needed by and provided to these children;
b. The number of and information about children assigned to a team who are placed in programs or facilities outside the child's home or outside the child's county and the average length of stay in residential treatment;
c. The amount and source of funds expended to implement the Initiative;

d. Information on how families and consumers are involved in decision making throughout service planning, delivery, and monitoring;

e. Other information as required by the Council to evaluate success in local programs and ensure appropriate outcomes; and

f. Recommendations on needed improvements.

(5) Local advisory committee. – In each county with a participating school, the superintendent of the local LEA shall either identify an existing cross agency collaborative or council, or shall form a new group, to serve as a local advisory committee to work with the Initiative. Newly formed committees shall be chaired by the superintendent and one other member of the committee to be elected by the committee. The local advisory committee shall include the directors of the county departments of social services and health, the directors of the local management entity, the chief district court judge, the chief district court counselor, the director of a school-based or school-linked health center if a center is located within the catchment area of the School-Based Child and Family Team Initiative, and representatives of other agencies providing services to children, as designated by the Committee. The members of the Committee shall meet as needed to monitor and support the successful implementation of the School-Based Child and Family Team Initiative.

The Local Child and Family Team Advisory Committee may designate existing cross agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

SECTION 10.9.(b) North Carolina Child and Family Leadership Council. –

(1) Leadership Council established; location. – There is established the North Carolina Child and Family Leadership Council (Council). The Council shall be located within the Department of Administration for organizational and budgetary purposes.

(2) Purpose. – The purpose of the Council is to review and advise the Governor in the development of the School-Based Child and Family Team Initiative and to ensure the active participation and collaboration in the Initiative by all State agencies and their local counterparts providing services to children in participating counties in order to increase the academic success and reduce out-of-home and out-of-county placements of children at risk of academic failure.

(3) Membership. – The Superintendent of Public Instruction and the Secretary of Health and Human Services shall serve as cochairs of the Council. Council membership shall include the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Chairman of the State Board of Education, the Director of the Administrative Office of the Courts, and other members as appointed by the Governor.

(4) The Council shall:

a. Sign an annual memorandum of agreement (MOA) among the named State agencies to define the purposes of the program and to ensure that program goals are accomplished.

b. Resolve State policy issues, as identified at the local level, which interfere with effective implementation of the School-Based Child and Family Team Initiative.
c. Direct the integration of resources, as needed, to meet goals and ensure that the Initiative promotes the most effective and efficient use of resources and eliminates duplication of effort.
d. Establish criteria for defining success in local programs and ensure appropriate outcomes.
e. Develop an evaluation process, based on expected outcomes, to ensure the goals and objectives of this Initiative are achieved.
f. Review progress made on integrating policies and resources across State agencies, reaching expected outcomes, and accomplishing other goals.
g. Report semiannually, on January 1 and July 1, on progress made and goals achieved to the Office of the Governor, the Joint Appropriations Committees and Subcommittees on Education, Justice and Public Safety, and Health and Human Services, and the Fiscal Research Division of the Legislative Services Office.

The Council may designate existing cross agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

SECTION 10.9.(c) Department of Health and Human Services. – The Secretary of the Department of Health and Human Services shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

SECTION 10.9.(d) Department of Juvenile Justice and Delinquency Prevention. – The Secretary of the Department of Juvenile Justice and Delinquency Prevention shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

SECTION 10.9.(e) Administrative Office of the Courts. – The Director of the Administrative Office of the Courts shall ensure that the Office collaborates in the development and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

SECTION 10.9.(f) Department of Public Instruction. – The Superintendent of Public Instruction shall ensure that the Department collaborates in the development and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

COMPREHENSIVE TREATMENT SERVICES PROGRAM/ESTABLISHMENT OF TASK FORCE ON THE COORDINATION OF CHILDREN'S SERVICES

SECTION 10.10.(a) The Department of Health and Human Services shall continue the Comprehensive Treatment Services Program for children at risk for institutionalization or other out-of-home placement. The Program shall be implemented by the Department in consultation with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected State agencies. The purpose of the Program is to provide appropriate and medically necessary

nonresidential and residential treatment alternatives for children at risk of institutionalization or other out-of-home placement. Program funds shall be targeted for non-Medicaid eligible children. Program funds may also be used to expand a system-of-care approach for services to children and their families statewide. The program shall include the following:

(1) Behavioral health screening for all children at risk of institutionalization or other out-of-home placement.
(2) Appropriate and medically necessary nonresidential and residential services for children within the child mental health deaf and hard of hearing target population.
(3) Appropriate and medically necessary nonresidential and residential treatment services, including placements for sexually aggressive youth.
(4) Appropriate and medically necessary nonresidential and residential treatment services, including placements for youth needing substance abuse treatment services and children with serious emotional disturbances.
(5) Multidisciplinary case management services, as needed.
(6) A system of utilization review specific to the nature and design of the Program.
(7) Mechanisms to ensure that children are not placed in department of social services custody for the purpose of obtaining mental health residential treatment services.
(8) Mechanisms to maximize current State and local funds and to expand use of Medicaid funds to accomplish the intent of this Program.
(9) Other appropriate components to accomplish the Program's purpose.
(10) The Secretary of the Department of Health and Human Services may enter into contracts with residential service providers.
(11) A system of identifying and tracking children placed outside of the family unit in group homes, therapeutic foster care home settings, and other out-of-home placements.
(12) The development of a strong infrastructure of interagency collaboration.
(13) Individualized strengths-based care.

SECTION 10.10.(b) In order to ensure that children at risk for institutionalization or other out-of-home placement are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these children:

(1) Provide only those treatment services that are medically necessary.
(2) Implement utilization review of services provided.
(3) Adopt the following guiding principles for the provision of services:
    a. Service delivery system must be outcome-oriented and evaluation-based.
    b. Services should be delivered as close as possible to the child's home.
    c. Services selected should be those that are most efficient in terms of cost and effectiveness.

d. Services should not be provided solely for the convenience of the provider or the client.
e. Families and consumers should be involved in decision making throughout treatment planning and delivery.
f. Services shall be specified, delivered, and monitored through a unified Child and Family Plan incorporating the principles of one-child-one-team-one-plan.
g. Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable, permanent home, their schools, and their community.

(4) Implement all of the following cost-reduction strategies:
a. Preauthorization for all services except emergency services.
b. Levels of care to assist in the development of treatment plans.
c. Clinically appropriate services.

SECTION 10.10.(c) The Department shall collaborate with other affected State agencies such as the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, the Administrative Office of the Courts, and with local departments of social services, area mental health programs, and local education agencies to eliminate cost shifting and facilitate cost-sharing among these governmental agencies with respect to the treatment and placement services.

SECTION 10.10.(d) The Department shall not allocate funds appropriated for Program services until a Memorandum of Agreement has been executed between the Department of Health and Human Services, the Department of Public Instruction, and other affected State agencies. The Memorandum of Agreement shall address specifically the roles and responsibilities of the various departmental divisions and affected State agencies involved in the administration, financing, care, and placement of children at risk of institutionalization or other out-of-home placement. The Department shall not allocate funds appropriated in this act for the Program until the Memoranda of Agreement between local departments of social services, area mental health programs, local education agencies, the Administrative Office of the Courts, and the Department of Juvenile Justice and Delinquency Prevention, as appropriate, are executed to effectuate the purpose of the Program. The Memoranda of Agreement shall address issues pertinent to local implementation of the Program, including provision for the immediate availability of student records to a local school administrative unit receiving a child placed in a residential setting outside the child's home county.

SECTION 10.10.(e) Notwithstanding any other provision of law to the contrary, services under the Comprehensive Treatment Services Program are not an entitlement for non-Medicaid eligible children served by the Program.

SECTION 10.10.(f) Of the funds appropriated in this act for the Comprehensive Treatment Services Program, the Department of Health and Human Services shall establish a reserve of three percent (3%) to ensure availability of these funds to address specialized needs for children with unique or highly complex problems.

SECTION 10.10.(g) The Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected agencies, shall report on the following Program information:

(1) The number and other demographic information of children served.
(2) The amount and source of funds expended to implement the Program.

(3) Information regarding the number of children screened, specific placement of children, including the placement of children in programs or facilities outside of the child's home county, and treatment needs of children served.

(4) The average length of stay in residential treatment, transition, and return to home.

(5) The number of children diverted from institutions or other out-of-home placements such as training schools and State psychiatric hospitals and a description of the services provided.

(6) Recommendations on other areas of the Program that need to be improved.

(7) Other information relevant to successful implementation of the Program.

SECTION 10.10.(h) The Department shall report on the following Program funding information:

(1) The amount of Program funding allocated and expended by each LME.

(2) The amount of Program funds each LME transferred out of the Program to serve purposes other than those outlined by this Program and an explanation of why LMEs transferred the funding.

(3) Recommendations to improve the penetration rate of Program funds to serve the intended populations across the State.

SECTION 10.10.(i) Article 24 of Chapter 120 of the General Statutes reads as rewritten:

"Article 24.

"The Legislative Study Commission on Children and Youth.

"§ **120-215. Commission created; purpose.**

There is created the Legislative Study Commission on Children and Youth. The purpose of the Commission is to study and evaluate the system of delivery of services to children and youth and to make recommendations to improve service delivery to meet present and future needs of the children and youth of this State. This study shall be a continuing one and the evaluation ongoing.

"§ **120-216. Commission duties.**

The Commission shall have the following duties:

(1) Study the needs of children and youth. This study shall include, but is not limited to:

a. Determining the adequacy and appropriateness of services:

1. To children and youth receiving child welfare services;

2. To children and youth in the juvenile court system;~~ and~~

3. Provided by the Division of Social Services and the Department of Juvenile Justice and Delinquency ~~Prevention.~~Prevention;

4. To children and youth served by the Mental Health, Developmental Disabilities, and Substance Abuse Services system.

b. Developing methods for identifying and providing services to children and youth not receiving but in need of child welfare services, children and youth at risk of entering the juvenile court system, and children and youth exposed to domestic violence situations.

c. Developing strategies for addressing the issues of school dropout, teen suicide, and adolescent pregnancy.

d. Identifying and evaluating the impact on children and youth of other economic and environmental issues.

e. Identifying obstacles to ensuring that children who are in secure or nonsecure custody are placed in safe and permanent homes within a reasonable period of time and recommending strategies for overcoming those obstacles. The Commission shall consider what, if anything, can be done to expedite the adjudication and appeal of abuse and neglect charges against parents so that decisions may be made about the safe and permanent placement of their children as quickly as possible.

(2) Evaluate problems associated with juveniles who are beyond the disciplinary control of their parents, including juveniles who are runaways, and develop solutions for addressing the problems of those juveniles.

(3) Identify strategies for the development and funding of a comprehensive statewide database relating to children and youth to facilitate State agency planning for delivery of services to children and youth.

(4) Conduct any other studies, evaluations, or assessments necessary for the Commission to carry out its purpose.

"§ **120-217. Commission membership; terms; compensation.**

(a) The Commission shall consist of ~~25~~ 26 members, as follows:

(1) Eleven members appointed by the Speaker of the House of Representatives, among them:

a. ~~Four~~ Five shall be members of the House of Representatives at the time of their appointment, of whom at least one shall also serve on the House of Representatives Appropriations Subcommittee on Health and Human Services, one of whom also serves on the Joint Legislative Education Oversight Committee, one of whom also serves on the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and one of whom also serves on the House of Representatives Appropriations Subcommittee on Justice and Public Safety,

b. One shall be the director of a local health department,

c. One shall be the director of a county department of social services,

d. One shall be ~~a representative of the general public who has knowledge of issues relating to children and youth,~~the parent of a child who is at risk for behavioral, social, health, or safety problems or academic failure,

e. One shall be a licensed physician who is knowledgeable about the health needs of children and youth, ~~and~~

f. One shall be a chief district court judge recommended by the Council of Chief District ~~Judges.~~Judges, and

g. One shall be a representative from the Covenant with North Carolina Children.

(2) Eleven members appointed by the President Pro Tempore of the Senate, as follows:

a. ~~Four~~ Five shall be members of the Senate at the time of their appointment, of whom at least one shall also serve on the Senate Appropriations Committee on Health and Human Services, at least one of whom shall also serve on the Joint Legislative Education Oversight Committee, at least one of whom shall also serve on the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and at least one of whom also serves on the Senate Appropriations Committee on Justice and Public Safety,

b. One shall be the director of a mental health area authority,

c. One shall be a representative of the Association of County Commissioners,

d. One shall be a representative of ~~the general public who has knowledge of issues relating to children and youth,~~a local board of education,

e. One shall be a licensed attorney whose practice includes the representation of parents accused of criminal or civil abuse or neglect, ~~and~~

f. One shall be a chief district court judge recommended by the Council of Chief District ~~Judges.~~Judges,

g. One shall be a representative from ~~the North Carolina Child Advocacy Institute.~~Action for Children of North Carolina, and

h. One shall be a representative from the North Carolina Child Fatality Task Force.

(3) The following shall serve ex officio as nonvoting members of the Commission:

a. The Secretary of Health and Human Services, or the Secretary's designee,

b. The State Superintendent of Public Instruction, or the Superintendent's designee,

c. The Secretary of Administration, or the Secretary's designee, and

d. The Director of the Administrative Office of the Courts, or the Director's designee.

(b) Any vacancy shall be filled by the appointing authority who made the initial appointment and by a person having the same qualification. Members' terms shall last for two years. Members may be reappointed for two consecutive terms and may be appointed again after having been off the Commission for two years.

(c) Commission members shall receive no salary as a result of serving on the Commission and the Task Force on the Coordination of Children's Services but shall receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

"§ **120-218. Commission meetings; public hearings; staff.**

(a) The Commission shall hold its initial meeting at the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Subsequent meetings shall be held upon the call of the Commission cochairs. The Speaker of the

House of Representatives and the President Pro Tempore of the Senate shall appoint a cochair each from the membership of the Commission.

(b) The Commission may hold public hearings across the State to solicit public input with respect to issues relating to children and youth.

(c) The Commission may contract for clerical or professional staff or for any other services it may require in the course of its ongoing study. At the request of the Commission, the Legislative Services Commission may supply members of the staff of the Legislative Services Office and clerical assistance to the Commission as the Legislative Services Commission considers appropriate. The Commission and the Task Force on the Coordination of Children's Services may, with the approval of the Legislative Services Commission, meet in the State Legislative Building or the Legislative Office Building.

"§ **120-219. Commission reports.**

The Commission shall report to the General Assembly and to the Governor the results of its study and recommendations. A written report shall be submitted to each biennial session of the General Assembly at its convening.

"§ **120-220. Commission authority.**

The Commission and the Task Force on the Coordination of Children's Services has the authority to obtain information and data from all State officers, agents, agencies, and departments, while in discharge of its duties, pursuant to G.S. 120-19, as if it were a committee of the General Assembly.

"**§ 120-221. Task Force on the Coordination of Children's Services.**

(a) There is created the Task Force on the Coordination of Children's Services, which shall be a Task Force of the Commission. The following members of the Commission shall serve on the Task Force:

(1) Five of the Commission members appointed by the Speaker of the House of Representatives, as follows:

a. The Commission member who serves on the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Commission member who is a member of the House of Representatives and who also serves on the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services,

b. The Commission member who is a local health director,

c. The Commission member who is the parent of a child at risk for behavioral, social, health, or safety problems or academic failure, and

d. The Commission member who is the director of a county department of social services.

(2) Five of the Commission members appointed by the President Pro Tempore of the Senate, as follows:

a. The Commission member who is a member of the Senate and serves on the Joint Legislative Education Oversight Committee, and the Commission member who serves on the Senate Appropriations Committee on Justice and Public Safety,

b. The Commission member who represents a local board of education,

c. The Commission member who is a representative of Action for Children of North Carolina, and

d. The Commission member who is the director of an area authority or county program.

(3) One designee of each of the following ex officio Commission members:

a. The Secretary of Health and Human Services,

b. The Superintendent of Public Instruction, and

c. The Secretary of Administration.

(4) Each cochair of the Commission shall appoint one of the Task Force members as cochair of the Task Force.

(b) The purpose of the Task Force is to study and recommend changes to the Commission, the Governor, and the General Assembly to improve collaboration and coordination among agencies that provide services to children, youth, and families with multiple service needs. Task Force recommendations shall include mechanisms for establishing clear State leadership, consistent policy direction, and increased accountability at the State and local levels. As part of its work, the Task Force shall:

(1) Identify existing State, regional, and local collaborative bodies (including their charges, scopes of authority, and accountability requirements) that have been created by legislation, administrative rule, or agency policy and that are charged with serving, protecting, or improving the well-being of North Carolina's children, youth, and families. Once it has identified the collaborative bodies, the Task Force shall consider how they could be consolidated, reorganized, or eliminated in order to improve their effectiveness and accountability, increase the likelihood that key players will actively participate, and reduce unnecessary duplication of effort. The Task Force shall also consider the creation of a mechanism for coordination and communication among the State and local collaborative bodies, incentives for collaboration, clarification of roles among agencies, and ways to monitor the extent to which groups are collaborating.

(2) Study the practices of agencies currently implementing a system of care platform of practices and make recommendations regarding whether to adopt those practices statewide and across child-serving agencies as the preferred mechanism for providing services to children, youth, and families. In examining this issue, the Task Force shall identify those State and local agencies that are currently implementing practices that are consistent with a system of care, those states that have implemented a system of care as a statewide policy initiative, and the extent to which a system of care is cost-effective.

(3) The Task Force shall also examine the following principles that are associated with a system of care and determine whether to recommend the adoption of a State policy that reflects these principles:

a. Services for children should promote success, safety, and permanence.

b. Services should be child- and family-centered, giving priority to keeping children with their families, in their home, school, and community.

c. Services should actively promote early identification and intervention.

d. Services should be designed to protect the rights of children.

e. Services shall be integrated and comprehensive, addressing the child's physical, educational, social, and emotional needs through a single child and family team.

f. Services shall be outcomes-accountable and tied to a unified child and family plan.

g. Agency resources and services shall be shared and coordinated.

h. Services shall be provided as close to home as appropriate in the least restrictive setting consistent with what is known to be effective.

i. Services shall be culturally competent.

j. Services shall address the unique strengths, needs, and potential of each child and family, and shall be sufficiently flexible to meet highly individualized child and family needs.

k. Management of the child-serving system is a responsibility shared among all public and private child-serving agencies that should be held collectively accountable for outcomes.

(4) In reviewing principles relating to a system of care, the Task Force shall determine whether they articulate goals that are measurable and if not, determine whether they could be modified to reflect measurable goals.

(5) Study any other issues the Task Force determines would improve coordination and collaboration among child-serving agencies.

(c) The Task Force shall report at least annually to the Commission or more frequently at the request of the cochairs of the Commission, and shall also report on April 1 of each year to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division."

SECTION 10.10.(j) Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. Professional staff shall be those assigned to subject areas or agencies involving child-serving programs administered by the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and the Department of Public Instruction. Clerical staff shall be furnished to the Task Force through the offices of the House of Representatives and Senate Directors of Legislative Assistants.

SECTION 10.10.(k) The Department shall report on April 1, 2008, and April 1, 2009, on the implementation of subsections (a) through (h) of this section. The reports required under this subsection shall be made to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

SENIOR CENTER OUTREACH

SECTION 10.11.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging and Adult Services, for the 2007-2009 fiscal

biennium, shall be used by the Division of Aging and Adult Services to enhance senior center programs as follows:

(1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or

(2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

SECTION 10.11.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

(1) Formally endorse the need for such a center;

(2) Formally agree on the sponsoring agency for the center; and

(3) Make a formal commitment to use local funds to support the ongoing operation of the center.

SECTION 10.11.(c) State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

QUALITY IMPROVEMENT CONSULTATION PROGRAM FOR ADULT CARE HOMES

SECTION 10.12. The Department's Division of Aging and Adult Services shall develop a Quality Improvement Consultation Program for Adult Care Homes. The purpose of the Program is to promote better care and improve quality of life in a safe environment for residents in adult care homes through consultation and assistance with adult care home providers. The county departments of social services shall be responsible for implementation of the Program with all adult care homes located in the respective county, based on a timetable for statewide implementation.

The Division of Aging and Adult Services shall consult with adult care home providers, county departments of social services, consumer advocates, and other interested stakeholders and parties in the development of the Quality Improvement Consultation Program for Adult Care Homes.

The Program will address the following topics:

(1) Principles and philosophies that are resident-centered and promote independence, dignity, and choice for residents;

(2) Approaches to develop continuous quality improvement with a focus on resident satisfaction and optimal outcomes;

(3) Dissemination of best practice models that have been used successfully elsewhere;

(4) A determination of the availability of standardized instruments, and their use to the extent possible, to assess and measure adult care home performance according to quality of life indicators;

(5) Utilization of quality improvement plans for adult care homes that identify and resolve issues that adversely affect quality of care and services to residents. The plans include agreed upon time frames for completion of improvements and identification of needed resources;

(6) Training required to equip county departments of social services' staff to implement the Program;

(7) A distinction of roles between the regulatory role of the Department's Division of Health Service Regulation and the quality improvement consultation and monitoring responsibilities of the county departments of social services; and

(8) Identification of staffing and other resources needed to implement the Program.

The Division of Aging and Adult Services shall conduct a pilot of the Quality Improvement Consultation Program for Adult Care Homes. No more than four county departments of social services shall participate in the pilot. The Division of Aging and Adult Services shall consider geographic balance and size in carrying out the pilot. At the conclusion of the pilot, the Division of Aging and Adult Services shall make recommendations regarding the effectiveness of the Quality Improvement Consultation Program for Adult Care Homes. If the Division recommends expansion of the pilot to other counties or statewide implementation of the Program, its report shall include the cost and a proposed timetable for implementing these recommendations, including the identification of any necessary statutory and administrative rule changes. The recommendations shall be made to the Secretary of the Department of Health and Human Services, the North Carolina Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Subcommittee on Health and Human Services.

STATE-COUNTY SPECIAL ASSISTANCE

SECTION 10.13.(a) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars ($1,231) per month per resident.

SECTION 10.13.(b) Effective January 1, 2007, the maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred forty-eight dollars ($1,148) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section.

SECTION 10.13.(c) Effective October 1, 2007, the maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred seventy-three dollars ($1,173) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section.

SECTION 10.13.(d) The maximum monthly rate for residents in Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars ($1,515) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section.

SECTION 10.13.(e) Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State-County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State-County Special Assistance set forth in subsections (b) and (c)

of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance and related transfer costs and responsibilities from State-County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Subject to approval by the Centers for Medicare and Medicaid Services (CMS) and prior to implementing this section, the Department may disregard a limited amount of income for individuals whose countable income exceeds the adjusted State-County Special Assistance rate. The amount of the disregard shall not exceed the difference between the Special Assistance rate prior to the adjustment and the Special Assistance rate after the adjustment and shall be used to pay a portion of the cost of the ACH-PCS and reduce the Medicaid payment for the individual's personal care services provided in an adult care home. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of the services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.13.(f) Effective July 1, 2007, the Department of Health and Human Services shall recommend rates for State-County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates based on appropriate cost methodology and cost reports submitted by adult care homes that receive State-County Special Assistance funds and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers.

SPECIAL ASSISTANCE IN-HOME

SECTION 10.14.(a) Part 3 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-47.1. Special Assistance in-home payments.**

The Department of Health and Human Services may use funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special Assistance for Adults. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be seventy-five percent (75%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State."

SECTION 10.14.(b) For State fiscal year 2007-2008, qualified individuals shall not receive payments at rates less than they would have been eligible to receive in State fiscal year 2006-2007.

CHILD CARE SUBSIDY RATES

SECTION 10.15.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

SECTION 10.15.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

SECTION 10.15.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

SECTION 10.15.(d) Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 10.15.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

SECTION 10.15.(f) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate

in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

SECTION 10.15.(g) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.15.(h) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.
(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.
(3) The child for whom a child care subsidy is sought is a citizen of the United States.

CHILD CARE ALLOCATION FORMULA

SECTION 10.16.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

(1) Funds shall be allocated based upon the projected cost of serving children in a county under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
(2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.

SECTION 10.16.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

SECTION 10.16.(c) Notwithstanding subsection (a) of this section, the Department of Health and Human Services shall allocate up to twelve million dollars ($12,000,000) in federal block grant funds and State funds appropriated for fiscal years 2007-2008 and 2008-2009 for child care services. These funds shall be allocated to prevent termination of child care services. Funds appropriated for specific purposes,

including market rate adjustments, may also be allocated by the Department separately from the allocation formula described in subsection (a) of this section.

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 10.17.(a) No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars ($25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a fifteen percent (15%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).

SECTION 10.17.(b) If funds are reallocated to local purchasing agencies in accordance with subsection (a) of this section, the Department of Health and Human Services shall evaluate the fifteen percent (15%) local matching requirement to determine its effect on local purchasing agencies and whether the matching requirement should be adjusted. The Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2008.

CHILD CARE REVOLVING LOAN

SECTION 10.18. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

CHILD CARE MARKET RATE ADJUSTMENTS

SECTION 10.18A. Not later than October 1, 2007, the Department shall implement an adjustment to child care market rates, by region, based upon the 2007 Child Care Market Rate Study. Rate adjustments shall be implemented as follows:

(1) For three- to five-star child care center-based rates, counties in Region 1 shall receive twenty percent (20%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.

(2) For three- to five-star child care center-based rates, counties in Regions 2-5 shall receive thirty percent (30%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.

(3) For three- to five-star child care home-based rates, all counties shall receive ten percent (10%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS

SECTION 10.19.(a) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business

and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

SECTION 10.19.(b) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.

(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.

(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.

(4) For amounts of forty thousand dollars ($40,000) or more, a request for proposal process and advertising in a major newspaper.

SECTION 10.19.(c) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records.

(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.

(3) Not include expenses funded by State funds.

(4) Be supplemental to and not supplant preexisting resources for related program activities.

(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.

(6) Be otherwise allowable under federal or State law.

(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.

(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 10.19.(d) The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 10.19.(e) The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2007-2008 and 2008-2009 shall be administered and distributed in the following manner:

(1) Capital expenditures are prohibited for fiscal years 2007-2008 and 2008-2009. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).

(2) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2007-2008 and 2008-2009.

SECTION 10.19.(f) A county may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes.

SECTION 10.19.(g) For fiscal years 2007-2008 and 2008-2009, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars ($52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

NCPC PERSONNEL RECORD PROTECTION

SECTION 10.19B.(a) G.S. 143B-168.12(a)(2) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

…

(2) The North Carolina Partnership and the local partnerships shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. <u>The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.</u>

…."

SECTION 10.19B.(b) G.S. 143B-168.14(a)(2) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

…

(2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

…."

EVALUATION OF EDUCATIONAL SERVICES TO STUDENTS WITH HEARING AND VISUAL IMPAIRMENTS

SECTION 10.20.(a) To ensure students with hearing and visual impairments are appropriately educated in this State, the Department of Health and Human Services and the Department of Public Instruction shall:

(1) Collaborate in an evaluation of the State's entire service delivery model for deaf and blind students, including special needs of the students resulting from additional disabilities other than hearing and visual impairments, the training needs of professional staff, access to assistive technology, and curriculum content.

(2) Determine whether the State's schools for the deaf and blind should remain under the purview of the Department of Health and Human Services or if management of the schools should be transferred to the Department of Public Instruction.

(3) Develop a plan to reduce institutional capacity to an appropriate level for meeting the needs of hearing and visually impaired students in North Carolina.

SECTION 10.20.(b) The Department of Health and Human Services and the Department of Public Instruction shall report their findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Education/Public Instruction, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division by April 1, 2008.

EARLY INTERVENTION SERVICES REPORT

SECTION 10.21.(a) The Department of Health and Human Services, Division of Public Health, shall report on Early Intervention services. The report shall include the following information for all children, ages birth to three years, entering the Early Intervention system as of July 1, 2007, through December 31, 2007:

(1) Children served: the number of children referred and the source of referral, the number of children receiving initial evaluations, the number of children determined eligible, the number of children enrolled, and the number of IFS Plans developed.

(2) Services provided: the number and types of evaluation services, treatment services, and other services provided and whether the service was provided by an employee of a children's developmental services agency or a private provider.

(3) Sliding scale participation: the percentage of enrolled children whose family income falls into each of the following categories: at or below two hundred percent (200%) of the federal poverty level, between two hundred fifty percent (250%) and three hundred percent (300%) of the federal poverty level, between three hundred fifty percent (350%) and four hundred percent (400%) of the federal poverty level, and over four hundred percent (400%) of the federal poverty level. These percentages shall be reported based on gross income and net income after allowable deductions.

The Division of Public Health shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than February 1, 2008.

SECTION 10.21.(b) In order to reduce the amount of State funds appropriated for the Child Development Service Agency program and to increase the amount of receipts collected for the services provided by this program, a portion of the funding for the Child Development Service Agency is designated as a nonrecurring appropriation for the 2007-2008 and the 2008-2009 fiscal years. To achieve the purposes of this action by the General Assembly, the Department of Health and Human Services, Division of Public Health, shall engage in vigorous efforts to collect additional Medicaid and other third-party reimbursements from clients and their families. These efforts are necessary to offset any potential shortfall and may yield additional revenue that could be used to provide increased services to additional children. The Department of Health and Human Services, Division of Public Health, shall report on these efforts and the results to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than March 1, 2008.

COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

SECTION 10.22.(a) Of funds appropriated in this act from the General Fund to the Department of Health and Human Services, the sum of two million five hundred thousand dollars ($2,500,000) for the 2007-2008 fiscal year and the sum of two million dollars ($2,000,000) for the 2008-2009 fiscal year shall be allocated for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) to provide grants-in-aid to local public health departments, American Indian tribes, and faith-based and community-based organizations to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to the health status of white persons. These grants shall focus on the use of preventive measures to support healthy lifestyles. The areas of focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and homicides and motor vehicle deaths.

The five hundred thousand dollars ($500,000) in nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Health Disparities Initiative in the 2007-2008 fiscal year shall be awarded as a grant-in-aid to honor the memory of the following recently deceased members of the General Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and William Martin. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who

are African-American, as well as disparities among other minority populations in North Carolina. These efforts shall include:

(1) Providing enhanced education and outreach to minority populations on the prevention, diagnosis, and treatment of heart disease, breast cancer, diabetes, obesity, hypertension, sickle cell anemia, and HIV infection.

(2) Addressing cultural and communication barriers to quality care by improving interpersonal processes between clinicians and patients.

The Secretary shall send to each grantee organization a letter stating that the award is made in honor of the memory of and in recognition of the recent deaths of Senators Robert Holloman, Jeanne Lucas, and William Martin and Representatives Bernard Allen, John Hall, and Howard Hunter.

SECTION 10.22.(b) The Department of Health and Human Services shall report on the following with respect to funds appropriated to the CFEHDI program in fiscal years 2005-2006, 2006-2007, and 2007-2008. The report shall address for each fiscal year:

(1) Which community programs and local health departments received CFEHDI grants.

(2) What amount of funding did each program or local health department receive.

(3) Which of the minority populations were served by the programs or local health departments.

(4) Which counties were served by the programs or local health departments.

(5) What activities were planned and implemented by the programs or local health departments to fulfill the community focus of the CFEHDI program.

The report shall also contain a comprehensive evaluation of all grantees with regard to fulfilling the goals of the program, assessing the difference the funded activities have made in the community, and addressing and mitigating the health disparities identified in the Racial and Ethnic Health Disparities in North Carolina, Report Card 2006. In addition, the Department shall solicit from the grantees their observations and recommendations on ways the CFEHDI program can best accomplish its goals. The report shall also include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State. The Department shall submit the report not later than March 1, 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

FUNDS FROM HEALTH AND WELLNESS TRUST FUND FOR NORTH CAROLINA TOBACCO QUITLINE

SECTION 10.22A. The Health and Wellness Trust Fund Commission may allocate from available Health and Wellness Trust Fund funds in the 2007-2008 fiscal year the sum of up to three hundred thousand dollars ($300,000) for the North Carolina Tobacco Quitline. These funds shall supplement and not supplant other funds allocated from the Health and Wellness Trust Fund for the 2007-2008 fiscal year for operation of the North Carolina Tobacco Quitline. These funds shall be used by the Department of Health and Human Services, Division of Public Health, to maximize funding from the

State alliance project being underwritten by the American Legacy Foundation to promote tobacco-use cessation for adults.

FUNDS FOR SCHOOL NURSES

SECTION 10.23.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million seven hundred thousand dollars ($2,700,000) for the 2007-2008 fiscal year and the sum of three million three hundred thousand dollars ($3,300,000) for the 2008-2009 fiscal year shall be used for the school nurse initiative. All funds appropriated or allocated for school nurses shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used for funding nurses for State agencies. All funds shall be used for direct services.

SECTION 10.23.(b) All school nurses funded with State funds shall participate, as needed, in child and family teams.

PUBLIC HEALTH FUNDS TO AID COUNTIES

SECTION 10.24. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of two million dollars ($2,000,000) for the 2007-2008 fiscal year and the sum of two million dollars ($2,000,000) for the 2008-2009 fiscal year shall be allocated as noncategorical General Aid to County funds to improve the delivery of the 10 essential public health services, including prevention activities that focus on the prevention of suicide among adolescents and young adults, in all counties. These funds shall not be used to supplant existing State, federal, county, or other funds allocated for this purpose.

HEALTH PROMOTION AND DISEASE PREVENTION INVENTORY AND PLAN

SECTION 10.25.(a) In order to reduce costs and eliminate duplication of effort, the Department of Health and Human Services shall create an inventory of all of the health promotion and disease prevention activities, including funding, staffing, and other resources for these activities and also including funding and resources for related task forces and committees. The inventory shall include at a minimum State and local health department activities that address tobacco-use prevention and cessation, obesity, improved nutrition and diet, physical exercise, public awareness and education concerning asthma, cancer, diabetes, heart disease, stroke, and accomplishment of the goals of the federal government's Healthy People 2010 Report.

SECTION 10.25.(b) The Department shall adopt a plan to combine the resources for the activities listed in subsection (a) of this section into a single funding stream allocation to be distributed to local health departments to utilize in accomplishing the 10 essential services of public health, which shall encompass all of the activities listed in subsection (a) of this section. The Department shall develop a formula that will distribute these funds on an equitable basis and that takes into consideration the following factors for areas served by each local health department:

(1) Rate of infant mortality.
(2) Rate of adolescent pregnancy.
(3) Rates of cancer, heart disease, and diabetes.
(4) Number of persons without health insurance.
(5) Median income.

(6) Percent of county population enrolled in Medicaid.
(7) Percent of the population that is minority.

SECTION 10.25.(c) The Department shall report on the inventory and the plan not later than February 1, 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

FUNDS FOR HEALTH CARE IN HONOR OF THE MEMORY OF SENATOR JEANNE H. LUCAS

SECTION 10.25A. Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Breast and Cervical Cancer Control Program and the Purchase of Medical Care for Cancer Treatment shall be allocated from a new fund code established for each of these purposes and allocated as provided in this act and are appropriated to honor the memory of Senator Jeanne H. Lucas.

AIDS DRUG ASSISTANCE PROGRAM

SECTION 10.26. For the 2007-2008 fiscal year and the 2008-2009 fiscal year, the Department may adjust the financial eligibility criterion of the ADAP up to an amount not exceeding two hundred fifty percent (250%) of the federal poverty level in order to serve as many eligible North Carolinians living with HIV disease as possible within existing resources plus any new federal resources. If the Department raises the eligibility limit above one hundred twenty-five percent (125%) of the federal poverty level and a waiting list develops as a result, the Department shall give priority on the waiting list to those individuals at or below one hundred twenty-five percent (125%) of the federal poverty level.

CHILD SUPPORT PROGRAM/ENHANCED STANDARDS

SECTION 10.28.(a) The Department of Health and Human Services shall implement and maintain performance standards for each of the State and county child support enforcement offices across the State. These performance standards shall include the following:

(1) Cost per collections.
(2) Consumer satisfaction.
(3) Paternity establishments.
(4) Administrative costs.
(5) Orders established.
(6) Collections on arrearages.
(7) Location of absent parents.
(8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting that allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

SECTION 10.28.(b) The Department of Health and Human Services shall report on its progress, in compliance with this section, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives

Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1 of each even-numbered year beginning in 2008.

FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.29.(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) $390.00 per child per month for children aged birth through 5;
(2) $440.00 per child per month for children aged 6 through 12; and
(3) $490.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars ($15.00) is a special needs allowance for the child.

SECTION 10.29.(b) The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

(1) $390.00 per child per month for children aged birth through 5;
(2) $440.00 per child per month for children aged 6 through 12; and
(3) $490.00 per child per month for children aged 13 through 18.

SECTION 10.29.(c) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

SECTION 10.29.(d) The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per child per month with indeterminate HIV status;
(2) $1,000 per child per month confirmed HIV-infected, asymptomatic;
(3) $1,200 per child per month confirmed HIV-infected, symptomatic; and
(4) $1,600 per child per month terminally ill with complex care needs.

CHILD CARING INSTITUTIONS

SECTION 10.30. Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

SPECIAL CHILDREN ADOPTION FUND

SECTION 10.31.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one hundred thousand dollars ($100,000) shall be used to support the Special Children Adoption Fund for the 2007-2008 and 2008-2009 fiscal years. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund

may be used for post-adoption services for families whose income exceeds two hundred percent (200%) of the federal poverty level.

SECTION 10.31.(b) Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2008, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

SECTION 10.31.(c) The Division of Social Services shall monitor the total expenditures in the Special Children Adoption Fund and redistribute unspent funds to ensure that the funds are used according to the guidelines established in subsection (a) of this section. The Division shall implement strategies to ensure that funds that have historically reverted for this program are used for the intended purpose.

LIMITATION ON STATE ABORTION FUND

SECTION 10.32. The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2007-2008 and 2008-2009 fiscal years.

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 10.33.(a) Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 10.33.(b) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

(1) An established follow-up system with a minimum of six months of follow-up services.
(2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.
(3) Cost-benefit data.
(4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
(5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
(6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 10.33.(c) The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities

providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

SECTION 10.33.(d) The Department shall report on the Intensive Family Preservation Services Program, including the information and data under subdivisions (b)(2) through (b)(6) of this section, each even-numbered year beginning in 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT FUND

SECTION 10.34.(a) There is appropriated from the Escheat Fund income to the Department of Health and Human Services the sum of one million five hundred fifty-three thousand six hundred dollars ($1,553,600) for the 2007-2008 fiscal year and the sum of three million one hundred sixty-eight thousand two hundred fifty dollars ($3,168,250) for the 2008-2009 fiscal year. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million five hundred fifty-three thousand six hundred dollars ($1,553,600) for the 2007-2008 fiscal year and the sum of three million one hundred sixty-eight thousand two hundred fifty dollars ($3,168,250) for the 2008-2009 fiscal year. These funds shall be used to implement a child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 1087ll. The Department shall collaborate with the State Education Assistance Authority to develop policies and procedures for the distribution of these funds.

If the interest income generated from the Escheat Fund is less than the amounts referenced in this subsection, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this subsection; however, under no circumstances shall the Escheat Fund principal be reduced below the sum of four hundred million dollars ($400,000,000).

Funds appropriated by this subsection shall be allocated by the State Education Assistance Authority.

The purpose for which funds are appropriated under this subsection is in addition to other purposes for which Escheat Fund income is distributed under G.S. 116B-7 and shall not be construed to otherwise affect the distribution of funds under G.S. 116B-7.

SECTION 10.34.(b) There is appropriated from the General Fund to the Department of Health and Human Services the sum of fifty thousand dollars ($50,000) for the 2007-2008 fiscal year and the sum of fifty thousand dollars ($50,000) for the 2008-2009 fiscal year to be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

SECTION 10.34.(c) There is appropriated from the General Fund to the Department of Health and Human Services the sum of four hundred thousand dollars ($400,000) for the 2007-2008 fiscal year and the sum of five hundred thousand dollars ($500,000) for the 2008-2009 fiscal year to contract with an entity to develop and administer the child welfare postsecondary support program described under subsection

(a) of this section, which development and administration shall include the performance of case management services.

SECTION 10.34.(d) Funds appropriated to the Department of Health and Human Services for the child welfare postsecondary support program shall be used only for students attending public institutions of higher education in this State.

TANF BENEFIT IMPLEMENTATION

SECTION 10.35.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2007-2009", prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2007, through September 30, 2009. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2007 General Assembly.

SECTION 10.35.(b) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2007-2009 as approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, and Wilson.

SECTION 10.35.(c) Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2007 through 2009, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2007. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2007.

CLARIFY REVIEW AND SUBMISSION PROCESS FOR TANF STATE PLAN

SECTION 10.35A.(a) G.S. 108A-27.9(a) reads as rewritten:

"(a) The Department shall prepare and submit to the Director of the Budget a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department ~~shall submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for its review and then consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them.~~shall:

(1) Consult with local government and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from those organizations; and

(2) Upon complying with subdivision (1) of this subsection, submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for review."

SECTION 10.35A.(b) G.S. 108A-27.10(a) reads as rewritten:

"(a) The Director of the Budget shall, by May 15 of each ~~even-numbered calendar~~odd-numbered year, approve and recommend adoption by the General Assembly of the State Plan."

MEDICAID

SECTION 10.36.(a) Use of Funds, Allocation of Costs, Other Authorizations.

(1) Use of Funds. – Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy.

(2) Allocation of Nonfederal Cost of Medicaid. – Effective until October 1, 2007, the State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004. Effective October 1, 2007, the State shall pay eighty-eight and three-quarters percent (88.75%); the county shall pay eleven and one-quarter percent (11.25%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay eighty-eight and three quarters percent (88.75%); the county shall pay eleven and one-quarter percent (11.25%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004. Effective July 1, 2008, the State shall pay ninety-two and one-half percent (92.5%); the county shall pay seven and one-half percent (7.5%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay ninety-two and one-half percent (92.5%); the county shall pay seven and one-half percent (7.5%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004. Effective July 1, 2009, the State shall pay one hundred percent (100%); the county shall pay zero percent (0%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay one hundred percent (100%); the county shall pay zero percent (0%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004.

(3) Use of Funds for Development and Acquisition of Equipment and Software. – If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software and related operational costs through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed funds allocated for the 2007-2008 and 2008-2009 fiscal years for the new contract for the fiscal agent for the Medicaid Management Information System.

(4) Reports. – Unless otherwise provided, whenever the Department of Health and Human Services is required by this section to report to the General Assembly, the report shall be submitted to the House of Representatives Appropriations Subcommittee for Health and Human

Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division of the Legislative Services Office. Reports shall be submitted on the date provided in the reporting requirement.

SECTION 10.36.(b) Policy. –

(1) Volume purchase plans and single source procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

(2) Cost-containment programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

(3) Fraud and abuse. – The Division of Medical Assistance, Department of Health and Human Services, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

(4) Medical policy. – Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars ($3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars ($3,000,000).

SECTION 10.36.(c) Eligibility. – Eligibility for Medicaid shall be determined in accordance with the following:

(1) Medicaid and Work First Family Assistance.

a. Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

	CATEGORICALLY NEEDY – WFFA*		**MEDICALLY NEEDY**
Family Size	Standard of Need & Families and Children Income Level	WFFA* Payment Level	Families and Children & AA, AB, AD* Income Level
1	$4,344	$2,172	$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

b. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need. These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.

d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.

b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

e. Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines and without regard to resources.

f. Family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.

(3) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

(4) Effective October 1, 2007, the Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act [42 U.S.C. § 1396d(w)(1)], without regard to the adolescent's assets, resources, or income levels.

(5) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly engaged in work activities as part of their developmental plan, and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	**Monthly Incentive Allowance**
$1.00 to $100.99	Up to $50.00
$101.00 to $200.99	$80.00
$201.00 to $300.99	$130.00
$301.00 and greater	$212.00

(6) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396a.(a)(10)(A)(ii)(XVIII).

SECTION 10.36.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

(1) Hospital inpatient.

(2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

(3) Nursing facilities. – Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare-certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare.

(4) Physicians, certified nurse midwife services, certified registered nurse anesthetists, nurse practitioners. – Fee schedules as developed by the Department of Health and Human Services.

(5) Community Alternative Program, EPSDT Screens. – Payments in accordance with rate schedule developed by the Department of Health and Human Services.

(6) Home health and related services, durable medical equipment. – Payments according to reimbursement plans developed by the Department of Health and Human Services.

(7) Hearing aids. – Wholesale cost plus dispensing fee to provider.

(8) Rural health clinical services. – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.

(9) Family planning. – Negotiated rate for local health departments. For other providers see specific services, e.g., hospitals, physicians.

(10) Independent laboratory and X-ray services. – Uniform fee schedules as developed by the Department of Health and Human Services.

(11) Ambulatory surgical centers.

(12) Private duty nursing, clinic services, prepaid health plans.

(13) Intermediate care facilities for the mentally retarded.

(14) Chiropractors, podiatrists, optometrists, dentists.

(15) Limitations on Dental Coverage. – Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.

(16) Medicare Buy-In. – Social Security Administration premium.

(17) Ambulance services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.

(18) Optical supplies. – Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.

(19) Medicare crossover claims. – The Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care.

(20) Physical therapy, occupational therapy, and speech therapy. – Services limited to EPSDT-eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy, occupational therapy, and speech therapy services are subject to prior approval and utilization review.

(21) Personal care services. – Effective October 1, 2007, the Department of Health and Human Services shall impose prior authorization on all personal care services. Criteria for prior authorization shall be developed in consultation with the Physician Advisory Group of the North Carolina Medical Society and shall include a requirement that a determination and notification of approval or denial of personal care services shall be made within seven working days of receipt of the prior authorization request. The Department shall provide periodic data on recipients of personal care services to Community Care of North Carolina. Community Care of North Carolina shall assist the Department in assessing personal care services for medical necessity. The Department shall report on the implementation of prior authorization of all personal care services to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by May 1, 2008. The report on implementation of prior authorization shall address the following:

a. Criteria for prior authorization developed in consultation with the North Carolina Physician Advisory Group.
b. Policies and procedures for the prior authorization program.
c. Use of the Uniform Screening Tool and the Integrated Assessment Tool for Medicaid Long Term Care Services in determining the need for personal care services.
d. Cost of implementing a prior authorization system.
e. Estimated costs savings from the implementation of a prior authorization system for personal care services.

(22) Case management services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

(23) Hospice.

(24) Medically necessary prosthetics or orthotics. – In order to be eligible for reimbursement, providers must be licensed or certified by the occupational licensing board or the certification authority having authority over the provider's license or certification. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.

(25) Health insurance premiums.

(26) Medical care/other remedial care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates.

(27) Pregnancy-related services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and

predelivery and postpartum home visits by maternity care coordinators and public health nurses.

(28) Drugs. – Reimbursements. Reimbursements shall be available for prescription drugs as allowed by federal regulations plus a professional services fee per month, excluding refills for the same drug or generic equivalent during the same month. Payments for drugs are subject to the provisions of this subdivision or in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription for generic drugs and four dollars ($4.00) per prescription for brand-name drugs. Adjustments to the professional services fee shall be established by the General Assembly. In addition to the professional services fee, the Department may pay an enhanced fee for pharmacy services.

Limitations on quantity. – The Department of Health and Human Services may establish authorizations, limitations, and reviews for specific drugs, drug classes, brands, or quantities in order to manage effectively the Medicaid pharmacy program, except that the Department shall not impose limitations on brand-name medications for which there is a generic equivalent in cases where the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary."

Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary." An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand-name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section

502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

Prior authorization. – The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, or (ii) HIV/AIDS, except that the Department of Health and Human Services shall continually review utilization of medications under the State Medical Assistance Program prescribed for Medicaid recipients for the treatment of mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, or major depressive disorder. For individuals 18 years of age and under who are prescribed three or more psychotropic medications, the Department shall implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns. When such patterns are identified, the Medical Director for the Division of Medical Assistance and the Chief of Clinical Policy for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require a peer-to-peer consultation with the target prescribers. Alternatives discussed during the peer-to-peer consultations shall be based upon:

a. Evidence-based criteria available regarding efficacy or safety of the covered treatments; and
b. Policy approval by a majority vote of the North Carolina Physicians Advisory Group (NCPAG).

The target prescriber has final decision-making authority to determine which prescription drug to prescribe or refill.

The Department shall report on the implementation of this subdivision not later than January 1, 2008, and quarterly thereafter to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(29) Other mental health services. – Unless otherwise covered by this section, coverage is limited to:

a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and
b. For children eligible for EPSDT services provided by:

1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and
2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and licensed clinical supervisors, Medicaid-eligible adults may be self-referred.

d. Payments made for services rendered in accordance with this subdivision shall be to qualified providers in accordance with approved policies and the State Plan. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or licensee. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to require any private health insurer or health plan to make direct third-party reimbursements or payments to any service provider, practitioner, or licensee.

Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under sub-subdivisions a. and b.2. of this subdivision shall be established by the Division of Medical Assistance.

SECTION 10.36.(e) Provider payments and visits. –

(1) Payment is limited to Medicaid-enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars ($100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid-enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

(2) Reimbursement is available for up to 30 visits per recipient per fiscal year for the following professional services: hospital outpatient providers, physicians, nurse practitioners, nurse midwives, clinics, health departments, optometrists, chiropractors, and podiatrists. The Department of Health and Human Services shall adopt medical policies in accordance with G.S. 108A-54.2 to distribute the allowable number of visits for each service or each group of services consistent with federal law. In addition, the Department shall establish a threshold of some number of visits for these services. The Department shall ensure that primary care providers or the appropriate CCNC network are notified when a patient is nearing the established threshold to facilitate care coordination and intervention as needed.

Prenatal services, all EPSDT children, emergency room visits, and mental health visits subject to independent utilization review are exempt from the visit limitations contained in this subdivision. Subject to appropriate medical review, the Department may authorize exceptions when additional care is medically necessary. Routine or maintenance visits above the established visit limit will not be covered unless necessary to actively manage a life threatening disorder or as an alternative to more costly care options.

SECTION 10.36.(f) Exceptions and limitations on services; authorization of co-payments and other services. –

(1) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payment bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

(2) Co-Payment for Medicaid Services. – The Department of Health and Human Services may establish co-payments up to the maximum permitted by federal law and regulation.

SECTION 10.36.(g) Rules, Reports, and Other Matters. –

(1) Rules. – The Department of Health and Human Services may adopt temporary or emergency rules according to the procedures established in G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. The Department of Health and Human Services shall adopt rules requiring providers to attend training as a condition of enrollment and may adopt temporary or emergency rules to implement the training requirement.

Prior to the filing of the temporary or emergency rules authorized under this subsection with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary or emergency rule and its effect on State appropriations and local governments.

(2) Changes to Medicaid program; reports. – The Department shall report on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval. In addition to the entities listed in subsection (a)(4) of this section, the report shall be submitted to the Joint Legislative Health Care Oversight Committee.

MEDICAID COST-CONTAINMENT ACTIVITIES

SECTION 10.37. The Department of Health and Human Services may use up to five million dollars ($5,000,000) in the 2007-2008 fiscal year and up to five million dollars ($5,000,000) in the 2008-2009 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost-containment programs.

Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, technology that improves clinical decision making, credit balance recovery and data mining services, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be

realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. On or before October 1, 2007, the Department shall also report the amounts paid for cost-containment activities in fiscal years 2003-2004 through 2006-2007, and the amount of savings realized from cost-containment activities in fiscal years 2003-2004 through 2006-2007.

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS

SECTION 10.39.(a) Disproportionate share receipts reserved at the end of the 2007-2008 and 2008-2009 fiscal years shall be deposited with the Department of State Treasurer as nontax revenue for each of those fiscal years.

SECTION 10.39.(b) For each year of the 2007-2009 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred million dollars ($100,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of one hundred million dollars ($100,000,000) shall be reserved by the State Treasurer for future appropriations.

SKILLED NURSING FACILITY REIMBURSEMENT RATES

SECTION 10.39A.(a) The Department of Health and Human Services, Division of Medical Assistance, shall rebase the rates for the case-mix reimbursement system for skilled nursing facilities according to the following schedule:

(1) Effective January 1, 2008, one-half of the rate rebasing shall be implemented using 2005 audited cost data.

(2) Effective October 1, 2008, the remaining half of the rate rebasing shall be implemented using 2006 audited cost data. If 2006 audited cost data is not available on October 1, 2008, then the remaining half of the rate rebasing shall be implemented using 2005 audited cost data.

Funding for inflationary increases for skilled nursing facilities for the 2007-2008 and 2008-2009 fiscal years shall be used to implement the rebasing of rates for the case-mix reimbursement system for skilled nursing facilities.

SECTION 10.39A.(b) Effective January 1, 2008, the skilled nursing facility provider assessment shall be increased by one dollar ($1.00). Effective January 1, 2009, the skilled nursing facility provider assessment shall be increased by one dollar ($1.00) over the assessment amount in effect on January 1, 2008. These assessment increases shall be consistent with federal law and regulations for provider assessments. The revenue realized from the increased provider assessment for skilled nursing facilities shall be used to reduce State appropriations needed to rebase the rates for the case-mix reimbursement system for skilled nursing facilities. If additional funding is needed to implement the rebasing of the case-mix reimbursement system for skilled nursing facilities, the Department may use funds available in order to implement the rebasing.

SECTION 10.39A.(c) The Department of Health and Human Services, Division of Medical Assistance, shall develop an appropriate schedule for ongoing rebasing of rates for the case-mix reimbursement system for skilled nursing facilities. Not later than December 1, 2008, the Department shall report on the implementation of

this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include how rebasing can effectively replace the existing system for providing inflationary increases for skilled nursing facilities.

MEDICAID SPECIAL FUND TRANSFER

SECTION 10.40. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars ($43,000,000) for the 2007-2008 fiscal year and the sum of forty-three million dollars ($43,000,000) for the 2008-2009 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act. The Department may also use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share Hospital payment audit issues between the Department of Health and Human Services and the federal government related to fiscal years 1997-2002, and funds are appropriated from the fund for the 2007-2009 fiscal biennium for this purpose.

MMIS+ DEVELOPMENT AND IMPLEMENTATION/REPORTING

SECTION 10.40D.(a) The Department of Health and Human Services (Department) shall make full development of the replacement Medicaid Management Information System (MMIS+) a top priority. During the development and implementation of MMIS+, the Department shall develop plans to ensure the timely and effective implementation of future enhancements to the system to provide the following capabilities:

(1) Receiving and tracking premium or other payments required by law.

(2) Compatibility with the administration of NC Health Choice, NC KIDSCare, the State Employees' Health Plan, the Health Information System, and Medicaid waivers and the Medicare 646 waiver.

These enhancements shall not delay the procurement or implementation of the core system but shall be included as an additional phase in the development and implementation of the multipayor initiatives included in the MMIS program currently under development between the Department, the Federal Centers for Medicare and Medicaid Services, and the Office of Information Technology Services (ITS). The Department shall make every effort to expedite the implementation of the enhancements. ITS shall work in cooperation with the Department to ensure the timely and effective implementation of the core system and enhancements.

SECTION 10.40D.(b) Notwithstanding G.S. 114-2.3, **t**he Department of Health and Human Services shall engage the services of private counsel with the pertinent information technology and computer law expertise to review requests for proposals and to negotiate and review contracts associated with MMIS+.

SECTION 10.40D.(c) The Department shall make interim and final reports on the development and implementation of MMIS+ to the Joint Legislative Oversight Committee on Information Technology, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations

Subcommittee on Health and Human Services, and the Fiscal Research Division as follows:

(1) By January 31, 2008, the Department shall make a detailed written interim report on:
   a. The projected date for implementation of the new core MMIS+ system.
   b. The status of the system development and implementation.
   c. Any issues that may impact the development and implementation of the core system, along with the actions being taken to reduce the impact.
   d. Any issues related to vendor performance and the actions being taken to ensure that the issues do not impact the timely completion of the project.
   e. The status of the project as indicated by the Office of Information Technology Services Project Portfolio Manager tool with an explanation of actions being taken to address any unsatisfactory indicators and the date by which remediation will be accomplished.
   f. Estimated final cost of the system, including an explanation of any additional costs not previously budgeted.
   g. A list of system enhancements under development.
   h. Projected date for implementation of each enhancement.
   i. Current status of each system enhancement.
   j. Any issues that may impact the development and implementation of the system enhancements, along with the actions being taken to reduce the impact.
   k. Cost for each system enhancement.
   l. Availability of federal funds to support development and implementation of each system enhancement.
   m. Any potential system enhancements not currently being considered or implemented.

(2) By May 1, 2008, the Department shall make a detailed final written report on the total costs and functionality of the MMIS+ system. A copy of the final report shall also be submitted to the Joint Legislative Commission on Governmental Operations.

PILOT PROGRAM/MEDICAID DUAL ELIGIBLE SPECIAL NEEDS PLAN

SECTION 10.40F.(a) The Department of Health and Human Services, Division of Medical Assistance, shall evaluate and establish a pilot program in at least two but not more than four regions of the State to offer nursing facility certifiable (NFC) dual eligible Medicaid recipients services through a Special Needs Plan (SNP). The SNP will work with the Department's Community Care Networks. The SNP must be currently licensed in the State, have expertise in managing NFC dually eligible Medicaid recipients, have expertise or a relationship with experts in geriatrics and be capable and willing to work directly with Community Care North Carolina (CCNC). The SNP must also have no citations or ongoing investigations from the State, the Centers for Medicaid and Medicare Services, or other regulatory agency.

SECTION 10.40F.(b) In establishing the pilot program, the Department shall select up to four regions (county clusters) based on the number of NFC dual

eligible Medicaid recipients, number of skilled nursing facilities, and other factors. These regions and their respective CCNC will work with the SNP to promote enhanced care, greater efficiency, and cost savings.

SECTION 10.40F.(c) The Department shall report on the evaluation, selection, and implementation of the pilot program to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than May 1, 2008. The Department shall include in its report information on increased primary care visits, hospital admission and readmission rates, mortality rates, results of pharmacy management, measurable quality outcomes, and associated cost savings for NFC managed through this pilot. The Department shall also include in its report the feasibility of expansion of the pilot to other regions of the State or expansion into the assisted living and home-based populations.

IMPLEMENT ELECTRONIC QUALITY PRESCRIPTION MANAGEMENT PROGRAM

SECTION 10.41. The Department of Health and Human Services, Division of Medical Assistance, in consultation with the Community Care of NC (CCNC) program, shall implement an Electronic Quality Prescription Management program for prescription drugs through the use of personal data assistance (PDA) technology. The Division may designate CCNC through the Office of Rural Health and Community Care as the lead program to implement this section and shall assist CCNC by providing cost containment funds to purchase PDAs, connectivity, and software, and for other related costs.

EFFECTIVE DATE OF CHANGES TO MEDICAID ESTATE RECOVERY PLAN

SECTION 10.42.(a) Section 10.21C(c) of S.L. 2005-276, as amended by Section 16 of S.L. 2005-345, and further amended by Section 10.9B of S.L. 2006-66, and as further amended by Section 10 of S.L. 2007-145, reads as rewritten:

"**SECTION 10.21C.(c)** This section becomes effective ~~August 1, 2007,~~July 1, 2008, and applies to recipients of medical assistance on or after that date."

SECTION 10.42.(b) In the event the effective date of Section 10.21C(c) of S.L. 2005-276 made applicable under subsection (a) of this section conflicts with the effective date of a provision in House Bill 1537, enacted by the 2007 General Assembly, pertaining to Medicaid Estate Recovery, the effective date contained in House Bill 1537 shall apply.

EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS REIMBURSEMENT SYSTEM

SECTION 10.44. Full implementation for the Community Alternatives Programs reimbursement system shall be not later than twelve months after the date on which the replacement Medicaid Management Information System becomes operational and stabilized.

FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY INCOME

SECTION 10.45.(a) Subject to approval from the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services, Division of

Medical Assistance, shall develop a schedule of cost-sharing requirements for families of children with incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation and Developmentally Disabled) Program and the CAP-C (Community Alternatives Program for Children). The cost-sharing amounts shall be based on a sliding scale of family income and shall take into account the impact on families with more than one child in the CAP programs. In developing the schedule, the Department shall also take into consideration how other states have implemented cost-sharing in their CAP programs. The Division of Medical Assistance may establish monthly deductibles as a means of implementing this cost-sharing. The Department shall provide for at least one public hearing and other opportunities for individuals to comment on the imposition of cost-sharing under the CAP program. Not later than March 1, 2008, the Department shall report on the cost-sharing requirements to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, and to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall include a summary of comments the Department has received at the public hearing required under this subsection, and shall also indicate any barriers to implementing the cost-sharing schedule.

SECTION 10.45.(b) This section becomes effective July 1, 2008, for children enrolled in CAP-MR/DD or CAP-C on and after that date. For currently enrolled CAP-MR/DD and CAP-C recipients, this section becomes effective at the recipient's first certification period following July 1, 2008.

SECTION 10.45.(c) The Division of Medical Assistance shall report on savings realized due to the cost-sharing implemented pursuant to this section. Savings realized from the implementation of cost-sharing shall remain in the CAP-MR/DD and CAP-C programs, as applicable, and shall be used to fund additional CAP-MR/DD and CAP-C slots. The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2009.

CONTINUE EFFORTS TO EXPAND COMMUNITY CARE AND IMPROVE QUALITY OF CARE FOR AGED, BLIND, AND DISABLED MEDICAID RECIPIENTS

SECTION 10.46.(a) The Department of Health and Human Services shall continue its efforts to expand the scope of Community Care of NC care management model to recipients of Medicaid and dually eligible individuals with a chronic condition and long-term care needs. In expanding the scope, the Department shall focus on the Aged, Blind, and Disabled, and CAP-DA populations for improvement in management, cost-effectiveness, and local coordination of services through Community Care of NC and in collaboration with local providers of care. The Department shall target personal care services, private duty nursing, home health, durable medical equipment, ancillary professional services, specialty care, residential services, including skilled nursing facilities, home infusion therapy, pharmacy, and other services determined target-worthy by the Department. The Department shall pilot communitywide initiatives and shall expand statewide successful models. The initiatives may include one or more

pilot projects to control costs and improve quality of care for the Aged, Blind, and Disabled recipients of Medicaid.

SECTION 10.46.(b) The Department of Health and Human Services shall report not later than March 1, 2008, on the status of the implementation and findings of this pilot project with regard to improving the quality of care and controlling the cost of care for the Aged, Blind, and Disabled recipients of Medicaid. The report shall also address the Department's plans for expanding the pilot project and implementing the practices for all Aged, Blind, and Disabled Medicaid recipients in the State. The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

NC HEALTH CHOICE ENROLLMENT

SECTION 10.47. The Department of Health and Human Services may allow up to six percent (6%) enrollment growth annually over the prior fiscal year's enrollment in the NC Health Choice Program. The cap in enrollment growth shall be based on the month of highest Program enrollment in the prior fiscal year.

NC KIDS' CARE

SECTION 10.48.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of three hundred sixty-eight thousand dollars ($368,000) for the 2007-2008 fiscal year shall be used by the Department of Health and Human Services to produce a report that identifies the most cost-efficient and cost-effective method for developing and implementing a program of comprehensive health care benefits within available funding for children ages 0 through 18 in families with annual incomes between two hundred percent (200%) and three hundred percent (300%) of the federal poverty level. The report shall consider and address the following:

(1) Congress' reauthorization of the State Children's Health Insurance Program (SCHIP) with respect to:
   a. The amount of federal funds authorized for each of the fiscal years covered in the reauthorization;
   b. The number of fiscal years that federal funding awarded to the states remains available to each state;
   c. The adequacy of the formula by which federal funds are distributed to the states; and
   d. The ability of states to expand SCHIP coverage to children whose family incomes exceed two hundred percent (200%) of the federal poverty level.

   The Department shall determine whether the most effective use of State funds is to develop a program that expands access to health insurance for children whose family income exceeds two hundred percent (200%) of the federal poverty level through NC Health Choice or the State Medical Assistance Program.

(2) Eligibility and benefits are not an entitlement, are for legal residents of North Carolina, and are subject to availability of State and federal funds, and State and federal requirements.

(3) The most cost-effective use of limited State funds to offer health care services to children in families between two hundred percent (200%) and three hundred percent (300%) of the federal poverty level.

(4) Children enrolled in the program must be ineligible for Medicaid, Medicare, or other government-sponsored health insurance. The Department shall study whether children must also be without private health insurance for a specified amount of time, e.g. six months.

(5) The health care benefits covered in the proposed expansion program shall not exceed the benefits currently covered by the NC Health Choice.

(6) The establishment of cost-sharing measures for the families of children with an income above two hundred percent (200%) of the federal poverty level, including:

a. A monthly premium per child that is at an optimal level that simultaneously is affordable, encourages participation by families, controls costs, and provides revenue to reduce the cost of the program to the State. The amount of the premium may increase as income increases above two hundred percent (200%) of the federal poverty level.

b. Increased co-payments and cost-sharing that are affordable and sufficient to control costs, while not discouraging families from seeking and continuing prescribed treatment for children.

c. A deductible that is to be applied to certain health care benefits.

d. A limit on out-of-pocket expenses that is no more than five percent (5%) of family income.

(7) The establishment of a comprehensive annual benefit limit per child that is no more than the current annual benefit limit under NC Health Choice.

(8) The most cost-effective and efficient way of administering and managing enrollment in the program and the collection of premiums. This may include having the current administrator of NC Health Choice be the entity to collect premiums, or designating some other benefit management or administrative entity to do so, including the Department.

SECTION 10.48.(b) Not later than January 1, 2008, the Department shall submit an interim report of its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division. The Department shall submit its final report not later than February 1, 2008. It is the intent of the General Assembly to review the Department's recommendations before the Department implements a program to expand access to health insurance to children above two hundred percent (200%) of the federal poverty level effective July 1, 2008, or upon approval of all required federal waivers, whichever occurs later.

SECTION 10.48.(c) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of seven million dollars ($7,000,000) for the 2008-2009 fiscal year shall be used to implement a program to expand access to health insurance to children above two hundred percent (200%) of the federal poverty level effective July 1, 2008.

BUILD COMMUNITY INFRASTRUCTURE FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

INCREASE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT.

SECTION 10.49.(a) Except as otherwise provided in this subsection, funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for regionally funded, locally hosted substance abuse services shall be allocated for the purpose of developing and enhancing the American Society of Addiction Medicine (ASAM) continuum of care at the community level. In coordination with local management entities, the Division shall develop and direct purchasing mechanisms to improve the availability of substance abuse services offered on a local, regional, and statewide basis in coordination with one or more local management entities. Of the funds allocated in this subsection for regionally funded, locally hosted substance abuse services, the sum of five hundred thousand dollars ($500,000) for the 2007-2008 fiscal year and the sum of seven hundred thousand dollars ($700,000) for the 2008-2009 fiscal year shall be allocated for residential substance abuse programs with a vocational component.

SECTION 10.49.(b) G.S. 122C-147.1 is amended by adding the following new subsection to read:

"(d1) Notwithstanding subsections (b) and (d) of this section, each area program shall determine whether to earn the funds for crisis services and funds for services to substance abuse clients in a purchase-for-service basis, under a grant, or some combination of the two. Area programs shall account for funds expended on a grant basis according to procedures required by the Secretary and in a manner that is similar to funds expended in a purchase-for-service basis."

SECTION 10.49.(c) Consistent with G.S. 122C-2, the General Assembly strongly encourages LMEs to use a portion of the funds appropriated for substance abuse treatment services to support prevention and education activities.

SECTION 10.49.(d) An LME may use up to one percent (1%) of funds allocated to it for substance abuse treatment services to provide nominal incentives for consumers who achieve specified treatment benchmarks, in accordance with the federal substance abuse and mental health services administration best practice model entitled Contingency Management.

SECTION 10.49.(e1) In providing treatment and services for adult offenders and increasing the number of TASC case managers, local management entities shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based interventions to individual needs at each stage of substance abuse treatment. Special emphasis should be placed on intermediate punishment offenders, community punishment offenders at risk for revocation, and DOC releasees who have completed substance abuse treatment while in custody.

In addition to the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to provide substance abuse services for adult offenders and to increase the number of TASC case managers, the Department shall allocate up to three hundred thousand dollars ($300,000) to Treatment Accountability for Safer Communities (TASC). These funds shall be allocated to TASC before funds are

allocated to local management entities for mental health services, substance abuse services, and crisis services.

SECTION 10.49.(e2) In providing Drug Treatment Court services, local management entities shall consult with the local drug treatment court team and shall select a treatment provider that meets all provider qualification requirements and the drug treatment court's needs. A single treatment provider may be chosen for non-Medicaid-eligible participants only. A single provider may be chosen who can work with all of the non-Medicaid-eligible drug treatment court participants in a single group. During the 52-week Drug Treatment Court program, participants shall receive an array of treatment and after-care services that meets the participant's level of need, including step-down services that support continued recovery.

SECTION 10.49.(f) Within available State and county resources, local management entities shall work with county public health departments and county sheriffs to provide medical assessments and medication, if appropriate, for inmates housed in county jails who are suicidal, hallucinating, or delusional. LMEs shall also examine ways to provide additional treatment to persons who are determined to be psychotic, severely depressed, suicidal, or who have substance abuse disorders. To this end:

(1) The Department shall work with LMEs, county public health departments, and county sheriffs to develop a statewide standardized evidence-based screening instrument to be used when offenders are booked. The standardized screening tool shall be implemented by January 1, 2008.

(2) LMEs and county sheriffs shall work together to develop all of the following:

a. A designated LME employee who is responsible for screening the daily jail booking log for known mental health consumers.

b. Protocols for effective communication between the LME and the jail staff including collaborative development of medication management protocols between the jail staff and the mental health providers.

c. Training to help detention officers recognize signals of mental illness.

ADDITIONAL HOUSING ASSISTANCE.

SECTION 10.49.(g) The independent and supportive living apartments for persons with disabilities developed from funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and the North Carolina Housing Finance Agency for that purpose shall be affordable to persons with incomes at the Supplemental Security Income (SSI) level. The Department shall maximize the number of subsidies that can be paid for with these funds by giving first priority to North Carolina Housing Agency-financed apartments, giving second priority to other publicly subsidized apartments, and third priority to market-rate apartments. Unless prohibited by the Fair Housing Act or other applicable federal law, in awarding funds for financing apartments, the Housing Finance Agency shall give first priority to those housing developments with an LME as the lead agency.

SECTION 10.49.(h1) The Department of Health and Human Services and the North Carolina Housing Finance Agency (NCHFA) shall work together to develop a

plan for the most efficient and effective use of State resources in the financing and development of additional independent- and supportive-living apartments for individuals with mental health, developmental or substance abuse disabilities. Not later than March 1, 2008, the Department and the NCHFA shall submit jointly an interim report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services ("Oversight Committee"). The interim report shall include how housing finance agencies and departments of health and human services in other states have worked together to address the housing needs of these populations and how other states have addressed disability specific housing. Not later than March 1, 2009, the Department and the NCHFA shall submit jointly a final report to the Oversight Committee. The final report shall take into consideration findings in the interim report and shall include strategies for addressing gaps in the housing continuum identified by the DHHS study of the housing needs of persons with mental illness in adult care homes, if the study is completed. The Department and the NCHFA shall also jointly report on the progress of the Housing 400 Initiative to the Oversight Committee not later than March 1, 2008.

SECTION 10.49.(h2) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, may transfer funds appropriated for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities to the North Carolina Housing Finance Agency (NCHFA) to be used for these purposes. If funds appropriated in this act for operating assistance for the independent supportive living apartments for people with disabilities exceed the amount necessary to finance those apartments for which funds were appropriated, then the excess funds may be used in each fiscal year to subsidize other apartments for individuals with disabilities that are affordable for individuals with income at the SSI level.

For the purposes of ensuring that State supported assisted housing is available to all disability groups, the NCHFA and the Department of Health and Human Services shall do the following:

(1) The NCHFA shall provide to the Division of Medical Assistance the identifying information of each resident that receives housing assistance in NCHFA properties because of the recipient's disability.

(2) The Department of Health and Human Services shall review the Medicaid database to determine which of these residents receives Medicaid and, of those, the type of disability of each Medicaid recipient for whom information was provided under subdivision (1) of this subsection.

(3) The Department of Health and Human Services shall report to the General Assembly the aggregate statewide total by type of disability. The types of disability for which aggregate data is reported shall be mental illness, developmental disability, physical disability, and the multiple combination of these types. The report shall ensure that individuals with multiple diagnoses are counted only one time for each aggregate report. The Department of Health and Human Services shall ensure that information reported does not include information that would identify or lead to the identity of a Medicaid recipient. The Department of Health and Human Services shall submit the report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health

and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than May 1, 2008, and again not later than May 1, 2009.

(4) The reports required under subdivision (3) of this subsection shall include data on all housing units for people with disabilities financed with Housing Trust Fund funds appropriated for the 2006-2007 fiscal year or after.

Of the funds appropriated in this act to the Department of Health and Human Services for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities, not more than one hundred fifty thousand dollars ($150,000) may be used for administration of the subsidies and for evaluation and reporting requirements under this subsection.

SECTION 10.49.(i) The Department of Health and Human Services shall develop a "Transitional Residential Treatment Program" service definition to provide 24-hour residential treatment and rehabilitation for adults who have a pattern of difficult behaviors related to mental illness, which exceeds the capabilities of traditional community residential settings. Before implementing the definition and rate, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. Not later than March 1, 2008, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the implementation of this subsection.

SECTION 10.49.(j) The joint ad hoc subcommittee regarding the mentally ill in adult care homes convened by the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the North Carolina Commission on Aging may continue to study and identify rules and laws that are necessary to regulate facilities that provide housing for adults with mental illness in the same location with adults without mental illness.

SECTION 10.49.(k) Not later than January 1, 2008, the Department of Health and Human Services shall complete the development of a Uniform Screening Tool (UST) to determine the mental health of any individual admitted to any long-term care facility. The Department shall report on the status of UST development on or before October 1, 2007, to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

SECTION 10.49.(l) G.S. 122C-115.4(b)(5) reads as rewritten:

"(b) The primary functions of an LME include all of the following:

(5) Care coordination and quality management. This function ~~includes the direct monitoring of the effectiveness of person centered plans. It also includes the initiation of and participation in the development of required modifications to the plans for high risk and high cost consumers in order to achieve better client outcomes or equivalent outcomes in a more cost-effective manner. Monitoring effectiveness includes reviewing client outcomes data supplied by the provider, direct contact with consumers, and review of consumer charts.~~involves individual client care decisions at critical treatment junctures to assure clients' care is coordinated, received when needed, likely to produce good outcomes, and is neither too little nor too much service to achieve the desired results. Care coordination is sometimes referred to

as "care management." Care coordination shall be provided by clinically trained professionals with the authority and skills necessary to determine appropriate diagnosis and treatment, approve treatment and service plans, when necessary to link clients to higher levels of care quickly and efficiently, to facilitate the resolution of disagreements between providers and clinicians, and to consult with providers, clinicians, case managers, and utilization reviewers. Care coordination activities for high risk/high cost consumers or consumers at a critical treatment juncture include the following:

a. Assisting with the development of a single care plan for individual clients, including participating in child and family teams around the development of plans for children and adolescents.
b. Addressing difficult situations for clients or providers.
c. Consulting with providers regarding difficult or unusual care situations.
d. Ensuring that consumers are linked to primary care providers to address the consumer's physical health needs.
e. Coordinating client transitions from one service to another.
f. Customer service interventions.
g. Assuring clients are given additional, fewer, or different services as client needs increase, lessen, or change.
h. Interfacing with utilization reviewers and case managers.
i. Providing leadership on the development and use of communication protocols.
j. Participating in the development of discharge plans for consumers being discharged from a State facility or other inpatient setting who have not been previously served in the community."

CRISIS AND ACUTE CARE SERVICES.

SECTION 10.49.(m) The thirteen million seven hundred thirty-seven thousand eight hundred fifty-six dollars ($13,737,856) appropriated in this act for crisis services in each fiscal year to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, shall be allocated to local management entities to continue to implement the crisis plans developed under S.L. 2006-66, Section 10.26. In allocating these funds, the Department shall consider the impact of the closure of any State institution on each local management entity. The Department of Health and Human Services may use up to two hundred fifty thousand dollars ($250,000) in each fiscal year of the funds allocated under this subsection to extend its contract with the crisis services consultant authorized under Section 10.26(b) of S.L. 2006-66.

SECTION 10.49.(n) S.L. 2006-66, Section 10.26(d), as amended by Section 11 of S.L. 2006-221, reads as rewritten:

"**SECTION 10.26.(d)** With the assistance of the consultant, the ~~area authorities and county programs~~ LMEs within a crisis region shall work together to identify gaps in their ability to provide a continuum of crisis services for all consumers and use the funds allocated to them to develop and implement a plan to address those needs. At a minimum, the plan must address the development over time of the following components: 24-hour crisis telephone lines, walk-in crisis services, mobile crisis

outreach, crisis respite/residential services, crisis stabilization units, 23-hour beds, facility-based crisis, in-patient crisis, detox, and transportation. Options for voluntary admissions to a secured facility must include at least one service appropriate to address the mental health, developmental disability, and substance abuse needs of adults, and the mental health, developmental disability, and substance abuse needs of children. Options for involuntary commitment to a secured facility must include at least one option in addition to admission to a State facility.

If all ~~area authorities and county programs~~ LMEs in a crisis region determine that a facility-based crisis center is needed and sustainable on a long-term basis, the crisis region shall first attempt to secure those services through a community hospital or other community facility. If all ~~area authorities and county programs~~ LMEs in the crisis region determine the region's crisis needs are being met, the ~~area authorities and county programs~~ LMEs may use the funds to meet local crisis service needs."

SECTION 10.49.(o) LMEs shall report monthly to the Department and to the consultant regarding the use of the funds, whether there has been a reduction in the use of State psychiatric hospitals for acute admissions, and any remaining gaps in local and regional crisis services. The consultant and the Department shall report quarterly to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services regarding each LME's proposed and actual use of the funds appropriated under this section. The reporting requirements under this subsection shall expire July 1, 2008.

SECTION 10.49.(q) G.S. 122C-147.1 is amended by adding the following new subsection to read:

"(b1) Notwithstanding subsection (b) of this section, funds appropriated by the General Assembly for crisis services shall not be allocated in broad disability or age/disability categories. Subsection (c) of this section shall not apply to funds appropriated by the General Assembly for crisis services."

SECTION 10.49.(r) The Department of Health and Human Services shall develop a system for reporting to LMEs aggregate information regarding all visits to community hospital emergency departments due to a mental illness, a developmental disability, or a substance abuse disorder. The report shall be submitted on a quarterly basis beginning with the 2007-2008 fiscal year.

SECTION 10.49.(s1) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division), the sum of two million five hundred thousand dollars ($2,500,000) for the 2007-2008 fiscal year and the sum of five million dollars ($5,000,000) for the 2008-2009 fiscal year shall be used to develop a pilot program to reduce State psychiatric hospital use and to increase local services for persons with mental illness. Of these funds, the sum of two hundred fifty thousand dollars ($250,000) in each fiscal year shall be retained by the Department. The remainder in each fiscal year shall be allocated to LMEs to be used in accordance with this section. The Division and each selected LME shall implement an 18-month pilot beginning in the 2007-2008 fiscal year, as provided in subsections (s2) and (s3) of this section. It is the intent of the General Assembly to provide funds to expand the pilot program in the 2008-2009 fiscal year. To this end, the Division shall develop a plan for expanded pilots as provided in subsection (s4) of this section.

SECTION 10.49.(s2) The purpose of the 18-month pilot program developed under subsection (s1) of this section and to be implemented during the 2007-2008 fiscal year is to test a mechanism to reduce psychiatric hospital use by holding an LME financially and clinically responsible for the cost of that use and by providing additional resources to build community capacity. The Department shall select up to three LMEs in the same catchment area and at least one LME in a different catchment area that submit a proposal to participate in the pilot to the Division no later than October 15, 2007. The proposal shall include a plan by the LME to reduce hospital use by a specified amount and an explanation of how the LME expects to accomplish this goal. To facilitate pilot implementation, the Division shall do all of the following:

(1) Calculate the cost of each LME's 2006-2007 use of State psychiatric hospital services based roughly on that hospital's total budget and the percentage of patients at the hospital admitted from the LME's catchment area.

(2) Calculate a daily rate for hospital usage based on 2006-2007 statewide usage. The daily rate shall be higher for subsequent admissions by the same patient and higher for patients admitted with a primary diagnosis of substance abuse.

(3) Provide the results from subdivisions (1) and (2) of this subsection to all LMEs not later than September 1, 2007.

(4) Award pilot participation not later than November 1, 2007, based upon the proposals that project the largest decrease in use and that the Division believes has the greatest likelihood of succeeding.

(5) Commence pilot implementation not later than January 1, 2008.

SECTION 10.49.(s3) Parameters of the pilot developed under subsection (s1) of this section are as follows:

(1) The pilot LMEs will have a virtual budget account for January 1, 2008, through June 30, 2008, based on one-half of the LME's cost of State psychiatric hospital use during the 2006-2007 fiscal year minus the LME's proposed reduction in hospital use. The virtual budget account will be for the full amount less an agreed upon reduction in the second year of the pilot.

(2) Every bed day used by patients from that LME's catchment area will be debited against that LME's virtual account.

(3) The cost of bed days will increase by the agreed upon amount for patients who are repeatedly admitted to the hospital.

(4) The cost of bed days will increase by the agreed upon amount for patients who are admitted with a primary diagnosis of substance abuse.

(5) The LME shall have one or more representatives on site at the State psychiatric hospital. The LME representatives shall be involved with patient admissions, development of treatment plans, supervision and delivery of treatment, and development and implementation of discharge plans.

(6) The pilot LMEs shall use their allocated funds to: (i) build community capacity through start-up operations or payment for local services; (ii) pay for the on-site representative at State psychiatric hospitals; and (iii) pay for patient bed days that are in excess of RFP's projected use.

(7) Any funds remaining from the two million two hundred fifty thousand dollar ($2,250,000) allocation shall carry over to be used by the LMEs to pay for services to the mentally ill.

SECTION 10.49.(s4) Based on the experiences of the pilot programs authorized under subsections (s2) and (s3) of this section, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division) shall work with the existing hospital use study group to develop a proposal for subsequent pilots to reduce hospital use and build community services. The Division may use up to two hundred fifty thousand dollars ($250,000) in each fiscal year to develop the proposal. The Division shall submit an interim report on its progress to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (Oversight Committee) by October 15, 2007, and a second interim report by February 1, 2008. The Division shall submit its final report to the Oversight Committee by February 1, 2009. The final report shall include a description of the pilot LMEs' success in working with local hospitals and the resulting reductions in the use of emergency rooms, jails, and State facilities.

SECTION 10.49.(s5) The budgets for the State psychiatric hospitals shall not be reduced during the 2007-2008 fiscal year as a result of the pilot developed under subsection (s1) of this section. However, those budgets shall be adjusted in following years to reflect the previous year's use by the LMEs participating in the pilot program.

SECTION 10.49.(t) Notwithstanding G.S. 122C-112.1(a)(30) and G.S. 122C-181, the Secretary of Health and Human Services may close Dorothea Dix Hospital, and the Secretary of Health and Human Services may close John Umstead Hospital or any unit or section of that hospital, provided that all of the following conditions have been met prior to closure of each hospital or unit thereof:

(1) The Secretary has notified the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure.

(2) The Secretary has presented a plan for the closure of each hospital or unit thereof to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (Oversight Committee) for its review, advice, and recommendations. The Secretary shall also provide a copy of the plan to each member of the General Assembly in a timely manner to permit each member of the General Assembly to comment at the presentation of the plan to the Oversight Committee. The plan shall address specifically all of the following: (i) the capacity of any replacement facility and the catchment area to meet the needs of those consumers who require long-term secure services as well as acute care; (ii) an inventory of existing capacity in the communities within the catchment area for patients to access crisis services, appropriate housing, and other necessary supports; (iii) how the State and the LMEs in the catchment area will attract and retain qualified private providers that will provide services to State-paid non-Medicaid-eligible consumers; and (iv) the impact of the closure on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and

recommendations of the Oversight Committee and other members of the General Assembly.

(3) The Central Regional Hospital is operational and patient transfers from Dorothea Dix Hospital and John Umstead Hospital have been completed.

(4) Notwithstanding any other provision of law, the Secretary shall not close a State facility if there are not adequate replacement services available prior to the date of closure.

SECTION 10.49.(u) In keeping with the United States Supreme Court decision in Olmstead v. L.C. & E.W. and State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall continue to implement a plan for the transition of patients from State psychiatric hospitals to the community or to other long-term care facilities, as appropriate. The goal is to develop mechanisms and identify resources needed to enable patients and their families to receive the necessary services and supports based on the following guiding principles:

(1) Individuals shall be provided acute psychiatric care in non-State facilities when appropriate.

(2) Individuals shall be provided acute psychiatric care in State facilities only when non-State facilities are unavailable.

(3) Individuals shall receive evidence-based psychiatric services and care that are cost-efficient.

(4) The State shall minimize cost shifting to other State and local facilities or institutions.

The Department of Health and Human Services shall conduct an analysis of the individual patient service needs and shall develop and implement an individual transition plan, as appropriate, for patients in each hospital. The State shall ensure that each individual transition plan, as appropriate, shall take into consideration the availability of appropriate alternative placements based on the needs of the patient and within resources available for the mental health, developmental disabilities, and substance abuse services system. In developing each plan, the Department shall consult with the patient and the patient's family or other legal representative.

The Department of Health and Human Services shall submit reports on the status of implementation of this section to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. These reports shall be submitted on December 1, 2007, and May 1, 2008.

USE OF MENTAL HEALTH TRUST FUNDS.

SECTION 10.49.(v) Funds in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs (Mental Health Trust Fund) that are designated by the Department of Health and Human Services in its 2006-2007 Mental Health Trust Fund Plan for increasing community-based services, shall be disbursed in full by the Department to LMEs for this purpose not later than October 1, 2007. Funds received by LMEs on or before October 1, 2007, for this purpose and not expended or encumbered by LMEs for this purpose by June 30, 2009, shall revert on that date to the Mental Health Trust Fund.

Notwithstanding G.S. 143C-9-2, as amended by subsection (w1) of this section, the Department of Health and Human Services may spend funds in the Mental Health Trust Fund for the 2007-2008 fiscal year for allowable purposes other than community-based programs provided that such purposes were included in the 2006-2007 Mental Health Trust Fund Plan. As used in this subsection "allowable purposes" means the statutory authorization in effect under G.S. 143-15.3D on June 30, 2007.

SECTION 10.49.(w1) G.S. 143C-9-2 reads as rewritten:

"§ **143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.**

(a) The Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs is established as an interest-bearing, nonreverting special trust fund in the Office of State Budget and Management. Moneys in the Trust Fund shall be held in trust and used solely to increase community-based services that meet the mental health, developmental disabilities, and substance abuse services needs of the State. The Trust Fund shall be used to supplement and not to supplant or replace existing State and local funding available to meet the mental health, developmental disabilities, and substance abuse services needs of the State.

The State Treasurer shall hold the Trust Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Trust Fund shall become part of the Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall be carried forward in the Trust Fund for the next succeeding fiscal year.

Moneys in the Trust Fund shall be expended only in accordance with subsection (b) of this section and in accordance with limitations and directions enacted by the General Assembly.

(b) Moneys in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs shall be allocated to area programs to be used only to:

(1) Provide start-up funds and operating support for programs and services that provide more appropriate and cost-effective community treatment alternatives for individuals currently residing in the State's mental health, developmental disabilities, and substance abuse services institutions.

~~(2) Facilitate the State's compliance with the United States Supreme Court decision in Olmstead v. L.C. and E.W.~~

(3) Facilitate reform of the mental health, developmental disabilities, and substance abuse services system and expand and enhance treatment and prevention services in these program areas to remove waiting lists and provide appropriate and safe services for clients.

(4) Provide bridge funding to maintain appropriate client services during transitional periods as a result of facility closings, including departmental restructuring of services.

~~(5) Construct, repair, and renovate State mental health, developmental disabilities, and substance abuse services facilities.~~

(c) Notwithstanding G.S. 143C-1-2, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in

excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143C-1-2, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(1) ~~(b)(2)~~ and (b)(3) of this section.

(d) Beginning July 1, 2007, the Secretary of the Department of Health and Human Services shall report annually to the Fiscal Research Division on the expenditures made during the preceding fiscal year from the Trust Fund. The report shall identify each expenditure by recipient and purpose and shall indicate the authority under subsection (b) of this section for the expenditure."

SECTION 10.49.(w2) Notwithstanding G.S. 143C-9-2(c), additional savings in the 2007-2008 and 2008-2009 fiscal years shall be used to fund the State's contribution for local management entity system administration.

SECTION 10.49.(w3) Notwithstanding G.S. 143C-9-2(b) requiring allocation of funds to area programs, the Department of Health and Human Services may use up to one million five hundred thousand dollars ($1,500,000) in each of the 2007-2008 and 2008-2009 fiscal years from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs for the purposes authorized under G.S. 143C-9-2(b)(1), (3), and (4).

SECTION 10.49.(x) Notwithstanding G.S. 143C-9-2, as amended by this act, the Secretary of Health and Human Services may use funds for the 2007-2008 fiscal year from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs (Trust Fund) or, if funds in the Trust Fund are insufficient, from other available sources in the Department of Health and Human Services, to support up to 66 new positions in the Julian F. Keith Alcohol and Drug Abuse Treatment Center, provided that these funds may be used only if the Julian F. Keith Alcohol and Drug Abuse Treatment Center opens before July 1, 2008.

STRENGTHEN THE SERVICES NETWORK.

SECTION 10.49.(y) Not later than September 1, 2007, the Department of Health and Human Services shall designate two additional local management entities to receive all State allocations through single stream funding. The Department shall develop clear standards for how an LME qualifies for single stream funding and shall award single stream funding to any other LME that meets those standards within the 2007-2008 and 2008-2009 fiscal years. These standards shall be developed and implemented not later than October 1, 2007. In addition to the LMEs designated by the Department, the Piedmont, New River, Smoky Mountain, Guilford, Sandhills, Five County, and Mecklenburg LMEs shall continue to receive State allocations through single stream funding. The Department may adopt temporary rules in accordance with Chapter 150B of the General Statutes in order to implement the standards required by this subsection by October 1, 2007.

SECTION 10.49.(z) The Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the effectiveness of the 1915(b) Medicaid waiver and of those LMEs operating under a waiver.

SECTION 10.49.(z1) The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) shall study whether and under what circumstances it would be appropriate for an LME to be a

service provider. The LOC shall report its findings in its report to the 2008 Regular Session of the 2007 General Assembly.

SECTION 10.49.(aa) No later than July 1, 2008, the Department of Health and Human Services shall commence the process for three additional local management entities to apply for Medicaid waivers.

FILLING SERVICE GAPS.

SECTION 10.49.(bb) Funds appropriated in this act for mental health services and supported employment shall be allocated to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level. Funds appropriated to the Department of Health and Human Services for the 2006-2007 fiscal year for mental health services, substance abuse services, and crisis services and allocated based on the poverty level shall continue to be allocated by the Department to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level.

SECTION 10.49.(cc) G.S. 122C-147.1(c) shall apply to the State-funded service of developmental therapies.

SECTION 10.49.(dd) The Department of Health and Human Services shall develop and apply to the Centers for Medicare and Medicaid Services for additional home and community-based waivers for persons with developmental disabilities. In conjunction with the existing CAP MR/DD waiver, the new waivers will create a tiered system of services. Not later than March 1, 2008, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the status of the waivers required under this section.

SECTION 10.49.(ee) For the purpose of avoiding overutilization of community support services and overexpenditure of funds for these services, the Department of Health and Human Services shall immediately conduct an in-depth evaluation of the use and cost of community support services to identify existing and potential areas of overutilization and overexpenditure. The Department shall also adopt or revise as necessary management policies and practices that will ensure that at a minimum:

(1) There is in place a list of community support services that are appropriate to meet the critical needs of the client and are cost effective;

(2) Community support services are appropriately utilized based on the critical needs of the client, and utilization is monitored routinely to ensure against overutilization;

(3) That expenditures for services are controlled to the maximum extent possible without unnecessarily impairing service quality and efficiency;

(4) Service providers are fully competent to provide each service, to provide the service in the most efficient manner, and that services and providers meet standards of protocol adopted by the Department. To this end, endorsement shall be based on compliance with: a Medicaid service-specific checklist, rules for Mental Health, Developmental Disabilities, and Substance Abuse Services, client rights rules in

community Mental Health, Developmental Disabilities, and Substance Abuse Services, the Medicaid service records manual, and other Medicaid requirements as stipulated in the participation agreement with the Division of Medical Assistance. In accordance with G.S. 122C-115.4, an LME may remove a provider's endorsement;

(5) All community support services are subject to prior approval after the initial assessment and development of a person-centered plan has been completed;

(6) Providers are limited to four hours of community support for adults and eight hours of community support for children to develop the person-centered plan. Those hours shall be provided only by a qualified professional. Providers that determine that additional hours are needed must seek and obtain prior approval. If additional hours are authorized, the LME may participate in the development of the person-centered plan as part of its care coordination and quality management function as defined in G.S. 122C-115.4.

(7) Based on standards of care and practice, a stringent clinical review process for authorization of services is implemented uniformly and in accordance with State guidelines;

(8) Additional record audits of providers are conducted on a routine basis to continually ensure compliance with Medicaid requirements;

(9) Post-payment clinical reviews are conducted at the local level to ensure that consumers receive the appropriate level and intensity of care;

(10) Beginning October 1, 2007, and monthly thereafter, report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. The report shall include the following:

a. The number of consumers of community support services by month, segregated by adult and child;

b. The number of units of community support services billed and paid by month, segregated by adult and child;

c. The amount paid for community support by month, segregated by adult and child;

d. Of the numbers provided in sub-subdivision b. of this subdivision, identify those units provided by a qualified professional and those provided by a paraprofessional;

e. The length of stay in community support, segregated by adult and child;

f. The number of clinical post payment reviews conducted by LMEs and a summary of those findings;

g. The total number of community support providers and the number of newly enrolled, re-enrolled, or terminated providers, and if available, reasons for termination;

h. The number of community support providers that have been referred to DMA's Program Integrity Section, the Division's

"Rapid Action response" committee; or the Attorney General's Office;

i. The utilization of other, newly enhanced mental health services, including the number of consumers served by month, the number of hours billed and paid by month, and the amount expended by month;

(11) If possible, modify the Medicaid claims payment processing system so that providers will be required to identify, by claim, whether the service was provided by a qualified professional or a paraprofessional; and

(12) The Department of Health and Human Services and the Department of Public Instruction shall amend their Memorandum of Agreement to ensure that each local education agency develops its own list of approved providers and individual service providers authorized to provide services on campus as provided under the Federal Safe Schools Act.

The Department shall report not later than November 1, 2007, on the list of community support services determined to be appropriate. Not later than March 1, 2008, the Department shall provide a detailed report on the implementation and status of each of the activities required by this subsection to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall also include clear standards for determining local management entity capability to perform utilization review and utilization management and clear statewide standards for utilization review and utilization management. These standards shall include (i) determination of medical necessity; (ii) an authorization process that includes the use of standardized forms; (iii) concurrent review procedures; (iv) recipient appeals process; (v) minimum staffing requirements; (vi) requirements for data collection and reporting; and (vi) performance criteria for the LMEs and outside vendor.

In order to ensure full compliance with the laws of this State on the implementation of mental health reform, the Department shall, by January 1, 2008, adopt statewide standardized authorization procedures and processes for Medicaid utilization review. Before July 1, 2008, (i) up to six LMEs that meet those standards (not including LMEs approved for 1915(b) waivers) may, under contract with the outside vendor, complete the utilization review process for enhanced benefit and CAP MR/DD services for the LMEs' respective catchment areas; (ii) the Department shall have a process outlined that would enable all other LMEs to meet the standards required for completing the utilization review process under contract with the outside vendor; (iii) the Department shall report on the implementation of utilization review, including the utilization review process, subcontract details, and funding levels, to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The Department shall ensure that all Medicaid utilization review contracts with outside vendors, as required under this subsection, that are executed, renewed, or extended after the effective date of this act, are in compliance with and do not impair, interfere with, or otherwise prohibit the

implementation of this subsection. Prior to renewing, extending, or entering into a contract with an outside vendor for utilization review under this subsection, the Department shall consult with the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

LME ADMINISTRATIVE FUNDING.

SECTION 10.49.(ff) The General Assembly finds that counties have budgeted almost one hundred twenty-one million dollars ($121,000,000) to LMEs to pay for mental health, developmental disabilities, and substance abuse services. However, the General Assembly lacks information regarding the specific services that are purchased with those county funds. The General Assembly also lacks data regarding the incomes of persons receiving mental health, developmental disabilities, and substance abuse services that are paid for by either State or county funds. This lack of data severely limits the General Assembly's ability to determine the distribution of services that are being paid for with public funds, whether persons who are eligible for Medicaid are being enrolled in that program, and whether expanding the State's Medicaid eligibility criteria would impact a significant number of mental health, developmental disabilities, and substance abuse services consumers. Therefore, LMEs shall report annually to the Division all expenditures from county funds by the LME for services, start-up expenses, and capital and operational expenditures, regardless of the source of the funds and regardless of whether the funds were earned on a payment for service or grant basis. This reporting shall include specific information regarding the expenditure of all funds provided to the LME by the county or counties contained in the LME's catchment area and the amount of expenditures for services provided by the multicounty LME to residents of each county in the multicounty LME's catchment area. To the extent possible, the information shall be submitted through the Integrated Payment and Reimbursement System. LMEs shall also gather income data for all individuals receiving services. Notwithstanding G.S. 143C-6-4, Budget Adjustments Authorized, the Department of Health and Human Services shall fully fund the State's contribution for LME system administration.

SECTION 10.49.(gg) It is the intent of the General Assembly that the deficit in State funding for local management entity system administration will be eliminated in future years through savings from hospital downsizing. The General Assembly anticipates that full funding for this purpose will be available in the 2009-2011 fiscal biennium.

SECTION 10.49.(hh) G.S. 122C-115.4(d) reads as rewritten:

"(d) Except as provided in G.S. 122C-142.1 and G.S. 122C-125, the Secretary may ~~not~~ neither remove from an LME nor designate another entity as eligible to implement any function enumerated under subsection (b) of this section unless all of the following applies:

(1) The LME fails during the previous three months to achieve a satisfactory outcome on any of the critical performance measures developed by the Secretary under G.S. 122C-112.1(33).

(2) The Secretary provides focused technical assistance to the LME in the implementation of the function. The assistance shall continue for at least six months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.

(3) If, after six months of receiving technical assistance from the Secretary, the LME still fails to achieve or maintain a satisfactory

outcome on the critical performance measure, the Secretary shall enter into a contract with another LME or agency to implement the function on behalf of the LME from which the function has been removed."

SECTION 10.49.(ii) The Department of Health and Human Services shall use available funds not to exceed five hundred thousand dollars ($500,000) in each fiscal year to contract with the University of North Carolina at Chapel Hill, Kenan Flagler Business School, to provide administrative training to local management entities. The Department of Health and Human Services shall advise the Kenan Flagler Business School on prioritizing those local management entities that would most benefit from the training. The Department of Health and Human Services shall use funds available for the contract.

SECTION 10.49.(jj) In allocating funds from existing resources to local management entities for administrative costs, the Department shall ensure that each local management entity receives not less in service dollars than that local management entity expensed for services in the 2006-2007 fiscal year.

DEVELOPMENTAL CENTER DOWNSIZING

SECTION 10.50.(a) In accordance with the Department of Health and Human Services' plan for mental health, developmental disabilities, and substance abuse services system reform, the Department shall ensure that the downsizing of the State's Developmental Centers is based upon individual needs and the availability of community-based services with a targeted goal of four percent (4%) each year. The Department shall implement cost-containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the Developmental Centers in order to ensure that placements for ICF-MR level of care shall be made to appropriate community-based settings. Admissions to a State-operated ICF-MR facility is permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the Developmental Centers shall be reduced, and positions shall be eliminated as the census of each facility decreases in accordance with the Department's budget reduction formula. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as outreach.

SECTION 10.50.(b) The Department of Health and Human Services shall apply any savings in State appropriations in each year of the 2007-2009 biennium that result from reductions in beds or services as follows:

(1) The Department shall place nonrecurring savings in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and use the savings to facilitate the transition of clients into appropriate community-based services and support in accordance with G.S. 143C-9-2;

(2) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall retain recurring savings realized through implementation of this section to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead v. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the Developmental Centers, including the savings in direct State appropriations in the budgets of the Developmental Centers; and

(3) The Department of Health and Human Services, Division of Medical Assistance, shall transfer any recurring Medicaid savings resulting from the downsizing of State-operated Developmental Centers from the ICF-MR line in Medicaid to support Medicaid services to assist in continued community service opportunities for people with developmental disabilities.

SECTION 10.50.(c) Consistent with the requirements of this section, the Secretary of Health and Human Services shall update the existing plan to ensure that there are sufficient developmental disability/mental retardation regional centers to correspond with service catchment areas. The plan shall address:

(1) Methods of funding for community services necessitated by downsizing;
(2) How many State-operated beds and non-State-operated beds are needed to serve the population; and
(3) Alternative uses for facilities.

Not later than April 1, 2008, the Department shall provide an updated report on the development of the plan, and not later than April 1, 2009, shall report the final plan, including recommendations for legislative action, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.50.(d) The Department of Health and Human Services shall provide an updated report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The Department shall submit the progress report no later than January 15, 2008, and submit a final report no later than May 1, 2009.

DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10.51.(a) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in cooperation with area mental health authorities and county programs, identify and eliminate administrative and fiscal barriers created by existing State and local policies and procedures in the delivery of community-based mental health, developmental disabilities, and substance abuse services provided through the area programs and county programs, including services provided through the Comprehensive Treatment Services Program for Children and services delivered to multiply diagnosed adults. The Department shall implement changes in policies and procedures in order to facilitate all of the following:

(1) The provision of services to adults and children as defined in the Mental Health System Reform State Plan as priority or targeted populations.
(2) The provision of services to children not deemed eligible for the Comprehensive Treatment Services Program for Children, but who would otherwise be in need of medically necessary treatment services to prevent out-of-home placement.

(3) The provision of services in the community to adults remaining in and being placed in State institutions addressed in Olmstead v. L.C.

SECTION 10.51.(b) The Department shall rework the revised system of allocating State and federal funds to area mental health authorities and county programs to better reflect projected needs, including the impact of system reform efforts rather than historical allocation practices and spending patterns. The reworked allocation shall include the following:

(1) For each LME, the current allocation by source and age/disability category, and the newly proposed allocation by source and age/disability category;

(2) A clear formula for how the new allocations are derived with a detailed methodology for how the formula was created; and

(3) A plan for moving to the new formula.

The Department shall submit the reworked language to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than October 1, 2007, for review. The Department shall implement the system only after review and approval by the 2007 General Assembly, Regular Session 2008.

SECTION 10.51.(c) Area mental health, developmental disabilities, and substance abuse services authorities and county programs shall use all funds appropriated for and necessary to provide mental health, developmental disabilities, and substance abuse services to meet the need for these services. If excess funds are available after expending appropriated funds to fully meet service needs, one-half of these excess funds shall not revert to the General Fund but shall be transferred to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, except that one-half of the funds appropriated for the Comprehensive Treatment Services Program for Children that are unexpended and unencumbered shall not revert to the General Fund but shall be carried forward and used only for services for children and adolescents.

The Department, in consultation with the area mental health authorities and county programs, shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the progress in implementing these changes. The report shall be submitted on October 1, 2007, and February 1, 2008.

SERVICES TO MULTIPLY DIAGNOSED ADULTS

SECTION 10.52.(a) In order to ensure that multiply diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

(1) Implement the following guiding principles for the provision of services:

a. Service delivery system must be outcome-oriented and evaluation-based.

b. Services should be delivered as close as possible to the consumer's home.
c. Services selected should be those that are most efficient in terms of cost and effectiveness.
d. Services should not be provided solely for the convenience of the provider or the client.
e. Families and consumers should be involved in decision making throughout treatment planning and delivery.

(2) Provide those treatment services that are medically necessary.
(3) Implement utilization review of services provided.

SECTION 10.52.(b) The Department of Health and Human Services shall implement all of the following cost-reduction strategies:

(1) Preauthorization for all services except emergency services.
(2) Criteria for determining medical necessity.
(3) Clinically appropriate services.

SECTION 10.52.(c) No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply diagnosed adults.

SECTION 10.52.(d) The Department shall report on implementation of this section on May 1, 2008, and again on May 1, 2009, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

DEPARTMENTAL FLEXIBILITY IN SCHEDULING THE TRANSFER OF POSITIONS PERTAINING TO THE CLOSURE OF DOROTHEA DIX AND JOHN UMSTEAD HOSPITALS AND THE OPENING OF CENTRAL REGIONAL HOSPITAL

SECTION 10.53.(a) The Department of Health and Human Services may schedule the transfer of positions relating to the closure of Dorothea Dix Hospital and John Umstead Hospital and the opening of Central Regional Hospital in accordance with appropriations and reductions in funding enacted in this act in a manner that is timely and with minimal disruption in services. The Department may not transfer more positions than are authorized in the House of Representatives Appropriations Committee Report on Health and Human Services, referenced in this act, for the closure of Dorothea Dix Hospital and John Umstead Hospital, the opening of Central Regional Hospital, the transfer of Whitaker School and R. J. Blackley ADATC to Central Regional Hospital, and the transfer of Dorothea Dix Hospital Forensic Unit beds to Broughton Hospital.

SECTION 10.53.(b) Of the funds appropriated in this act to the Department of Health and Human Services for Broughton Hospital, the sum of up to two hundred fifty thousand dollars ($250,000) may be used by Broughton Hospital to purchase a CT Scanner.

INSTITUTE OF MEDICINE TASK FORCE/STUDY OF SUBSTANCE ABUSE SERVICES IN NORTH CAROLINA

SECTION 10.53A.(a) The three hundred thousand dollars ($300,000) appropriated in this act to the Department of Health and Human Services for allocation to the North Carolina Institute of Medicine (NC IOM) shall be used by the IOM to hire

new staff, to undertake additional studies annually at the request of the General Assembly, and to support a rapid-response capacity to analyze secondary data sources on health or health-related data to the General Assembly and to State and local government agencies.

SECTION 10.53A.(b) The North Carolina Institute of Medicine shall use a portion of the funds allocated to it in subsection (a) of this section to convene a task force to study substance abuse services in North Carolina. The NC IOM shall provide staff and arrange for meeting facilities for the Task Force.

SECTION 10.53A.(c) The Task Force shall include the following:

(1) Members of the North Carolina Senate and the North Carolina House of Representatives. Senate members shall be appointed by the President Pro Tempore of the Senate. Members of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

(2) Representatives of the North Carolina Department of Health and Human Services, local management entities, the North Carolina Department of Justice, the NC Office of the Attorney General, the North Carolina Community College System, and the North Carolina Department of Public Instruction.

(3) Providers of substance abuse services, academics and researchers with substance abuse expertise, local governmental agencies, business and industry, domestic violence organizations, consumer and family members, and other interested members of the public.

The IOM shall appoint as cochairs of the Task Force one member of the North Carolina House of Representatives, one member of the North Carolina Senate, and one member who provides substance abuse services selected from the Task Force.

SECTION 10.53A.(d) The Task Force shall:

(1) Identify the continuum of services needed for treatment of substance abuse services, including, but not limited to, prevention, outpatient services, residential treatment, and recovery supports. The Task Force shall examine what public and private organizations currently provide services, where services are offered, and gaps in the current service delivery system. The Task Force shall examine services that are available through public and private systems, but shall focus on the availability of substance abuse services through the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and local management entities. The Task Force shall identify which services should be available locally throughout the State, and which services should be offered regionally or statewide.

(2) Identify evidence-based models of care or promising practices in coordination with the NC Practice Improvement Collaborative for the prevention and treatment of substance abuse and develop recommendations to incorporate these models into the current substance abuse service system of care.

(3) Examine different financing options to pay for substance abuse services at the local, regional, and State levels. The Task Force shall also consider different reimbursement methodology, including, but not limited to, fee-for-service, grant funding, case rates, and capitation.

(4) Examine the adequacy of the current and future substance abuse workforce, including, but not limited to, credentialed substance abuse counselors, availability of substance abuse workers throughout the State, and reimbursement levels. The Task Force shall develop a workforce education plan, if needed, to address current or future workforce shortages.

(5) Develop strategies to identify people in need of substance abuse services, including people who are dually diagnosed as having mental health and substance abuse problems. In addition, the Task Force shall examine strategies for providing substance abuse services to people with substance abuse problems identified through the State hospitals, and the judicial and social services systems.

(6) Examine barriers that people with substance abuse problems have in accessing publicly funded substance abuse services and explore possible strategies for improving access.

(7) Examine current outcome measures and identify other appropriate outcome measures to assess the effectiveness of substance abuse services, if necessary.

(8) Examine the economic impact of substance abuse in North Carolina. If data are available, the Task Force shall estimate the impact of substance abuse on the court system, health care system (e.g., through preventable hospitalizations), social services, and worker productivity.

(9) Make recommendations on the implementation of a cost-effective plan for prevention, early screening, diagnosis, and treatment of North Carolinians with substance abuse problems. In so doing, the Task Force shall identify any policy changes needed to implement the plan and develop cost estimates associated with different recommendations. The Task Force shall also examine existing public and private financing options and explore how existing funding could be used more effectively to pay for the recommended services.

SECTION 10.53A.(e) The North Carolina Institute of Medicine's Substance Abuse Services Task Force shall submit its interim report and recommendations to the 2008 General Assembly upon its convening and to the chairs of the Senate Health Committee, the House of Representatives Health Committee, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Governor. The final report shall be submitted no later than the convening of the 2009 General Assembly. Upon submission of this report, the Task Force shall terminate.

FUNDS FOR HEALTH CARE PERSONNEL REGISTRY AND FOR RATED CERTIFICATES FOR ADULT CARE HOMES/CONTINGENCY

SECTION 10.54.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Health Service Regulation, for the 2007-2008 fiscal year and the 2008-2009 fiscal year for positions and related costs to expand the Health Care Personnel Registry are contingent upon enactment of Senate Bill 56, 2007 Regular Session, by the 2007 General Assembly.

SECTION 10.54.(b) Funds appropriated in this act to the Department of Health and Human Services, Division of Health Service Regulation, for the 2007-2008 fiscal year and the 2008-2009 fiscal year for implementation of rated certificates for

adult care homes are contingent upon enactment of Senate Bill 56, 2007 Regular Session, by the 2007 General Assembly.

DHHS BLOCK GRANTS

SECTION 10.55.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2008, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES
(TANF) BLOCK GRANT

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance (Cash Assistance)	$94,857,234
02.	Work First County Block Grants	94,653,315
03.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
04.	Work First – Boys and Girls Clubs	2,000,000
05.	Work First – After-School Services for At-Risk Children	2,249,642
06.	Work First – After-School Programs for At-Risk Youth in Middle Schools	500,000
07.	Work First – Connect, Inc.	550,000
08.	Adoption Services – Special Children's Adoption Fund	3,000,000
09.	Family Violence Prevention	2,200,000

Division of Child Development

10.	Subsidized Child Care Program	48,563,266

DHHS Administration

11.	Division of Social Services	762,626
12.	Office of the Secretary	65,836
13.	Office of the Secretary/DIRM – TANF Automation Projects	592,500

14.	Office of the Secretary/DIRM – NC FAST Implementation	1,800,000
	Division of Public Health	
15.	Teen Pregnancy Prevention Initiatives	450,000
	Transfers to Other Block Grants	
	Division of Child Development	
16.	Transfer to the Child Care and Development Fund	81,292,880
	Division of Social Services	
17.	Transfer to Social Services Block Grant for Department of Juvenile Justice and Delinquency Prevention – Support Our Students	2,749,642
18.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,550,000
19.	Transfer to Social Services Block Grant for Maternity Homes	838,000
20.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
21.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
22.	Transfer to Social Services Block Grant for Foster Care Services	1,181,907
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		$362,309,239
SOCIAL SERVICES BLOCK GRANT		
Local Program Expenditures		
	Divisions of Social Services and Aging and Adult Services	
01.	County Departments of Social Services (Transfer from TANF – $4,500,000)	$ 28,868,189
02.	State In-Home Services Fund	2,101,113

03.	State Adult Day Care Fund	2,155,301
04.	Child Protective Services/CPS Investigative Services-Child Medical Evaluation Program	238,321
05.	Foster Care Services (Transfer from TANF – $1,181,907)	2,649,662
06.	Foster Care Maintenance Payments	2,636,587
07.	Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	2,550,000
08.	Maternity Homes (Transfer from TANF)	838,000
	Division of Aging and Adult Services	
09.	Home and Community Care Block Grant (HCCBG)	1,834,077
	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
10.	Mental Health Services Program	422,003
11.	Developmental Disabilities Services Program	5,000,000
12.	Mental Health Services-Adult and Child/Developmental Disabilities Program/ Substance Abuse Services-Adult	3,234,601
	Division of Child Development	
13.	Subsidized Child Care Program	3,195,000
	Division of Vocational Rehabilitation	
14.	Vocational Rehabilitation Services – Easter Seal Society/UCP	188,263
	Office of the Secretary – Office of Economic Opportunity	
15.	Elderly Supplemental Grant Program	41,302
	Division of Public Health	
16.	Teen Pregnancy Prevention Initiatives	2,500,000

	(Transfer from TANF)	
DHHS Program Expenditures		
	Division of Aging and Adult Services	
17.	UNC-CARES Training Contract	247,920
	Division of Services for the Blind	
18.	Independent Living Program	3,480,133
	Division of Health Service Regulation	
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668
DHHS Administration		
21.	Division of Aging and Adult Services	658,674
22.	Division of Social Services	869,058
23.	Office of the Secretary/Controller's Office	126,155
24.	Office of the Secretary/DIRM	82,009
25.	Division of Child Development	15,000
26.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	28,860
27.	Division of Health Service Regulation	159,218
28.	Office of the Secretary-NC Inter-Agency Council For Coordinating Homeless Programs	250,000
29.	Office of the Secretary-Housing Coalition	100,000
30.	Office of the Secretary	46,819
Transfers to Other State Agencies		
	Department of Administration	
31.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198

Department of Juvenile Justice and Delinquency Prevention		
32.	Support Our Students (Transfer from TANF)	2,749,642
Transfers to Other Block Grants		
Division of Public Health		
33.	Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 68,232,489
LOW-INCOME ENERGY BLOCK GRANT		
Local Program Expenditures		
Division of Social Services		
01.	Low-Income Energy Assistance Program (LIHEAP)	$ 17,315,919
02.	Crisis Intervention Program (CIP)	12,904,706
Office of the Secretary – Office of Economic Opportunity		
03.	Weatherization Program	5,578,702
04.	Heating Air Repair & Replacement Program (HARRP)	2,602,008
Local Administration		
Division of Social Services		
05.	County DSS Administration	2,215,016
Office of the Secretary – Office of Economic Opportunity		
06.	Local Residential Energy Efficiency Service Providers – Weatherization	262,837
07.	Local Residential Energy Efficiency Service Providers – HARRP	122,591
DHHS Administration		
08.	Division of Social Services	215,000
09.	Division of Mental Health, Developmental	

	Disabilities, and Substance Abuse Services	7,389
10.	Office of the Secretary/DIRM	245,395
11.	Office of the Secretary/Controller's Office	11,211
12.	Office of the Secretary/Office of Economic Opportunity – Weatherization	262,837
13.	Office of the Secretary/Office of Economic Opportunity – HARRP	122,591
Transfers to Other State Agencies		
14.	Department of Administration – N.C. State Commission of Indian Affairs	59,740
TOTAL LOW-INCOME ENERGY BLOCK GRANT		$ 41,925,942
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
Local Program Expenditures		
	Division of Child Development	
01.	Subsidized Child Care Services	$166,914,864
02.	Subsidized Child Care Services (TANF to CCDF)	81,292,880
DHHS Program Expenditures		
	Division of Child Development	
03.	Quality and Availability Initiatives	31,463,419
Local Administrations		
	Division of Child Development	
04.	Administrative Expenses (Nondirect Subsidy Services Support)	2,221,688
DHHS Administration		
05.	DCD Administrative Expenses	6,403,354
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		$288,296,205

MENTAL HEALTH SERVICES BLOCK GRANT		
Local Program Expenditures		
01.	Mental Health Services – Adult	$ 5,654,932
02.	Mental Health Services – Child	3,921,991
03.	Comprehensive Treatment Service Program	1,500,000
Local Administration		
04.	Division of Mental Health	100,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		$ 11,176,923
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		
Local Program Expenditures		
01.	Substance Abuse Services – Adult	$ 20,287,390
02.	Substance Abuse Treatment Alternative for Women	8,069,524
03.	Substance Abuse – HIV and IV Drug	4,816,378
04.	Substance Abuse Prevention – Child	5,835,701
05.	Substance Abuse Services – Child	4,940,500
06.	Substance Abuse Strengthening Families – Prevention	851,156
Division of Public Health		
07.	Risk Reduction Projects	633,980
08.	Aid-to-Counties	209,576
09.	Maternal Health	37,779
DHHS Administration		
10.	Division of Mental Health	500,000

TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	$ 46,181,984
MATERNAL AND CHILD HEALTH BLOCK GRANT	
Local Program Expenditures	
Division of Public Health	
01. Children's Health Services	6,657,275
02. Family Planning	4,078,338
03. Maternal Health	3,441,129
04. Teen Pregnancy Prevention Initiatives	85,710
05. Oral Health	35,951
DHHS Program Expenditures	
Division of Public Health	
06. Children's Health Services	2,444,445
07. Maternal Health	106,927
08. State Center for Health Statistics	33,134
09. Local Technical Assistance & Training	17,318
10. Injury and Violence Prevention	142,850
11. Office of Minority Health	37,068
12. Immunization Program – Vaccine Distribution	310,667
DHHS Administration	
13. Division of Public Health Administration	600,586
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	$ 17,991,398
PREVENTIVE HEALTH SERVICES BLOCK GRANT	
Local Program Expenditures	
01. NC Statewide Health Promotion	$1,755,653

02.	Services to Rape Victims	197,112
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819

DHHS Program Expenditures

04.	NC Statewide Health Promotion	718,451
05.	Oral Health	70,000

DHHS Administration

06.	Division of Public Health	163,806

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT $3,070,841

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity – Community Services Block Grant

01.	Community Action Agencies	$ 15,071,666
02.	Limited Purpose Agencies	823,136

DHHS Administration

03.	Office of Economic Opportunity	823,136

TOTAL COMMUNITY SERVICES BLOCK GRANT $ 16,717,938

GENERAL PROVISIONS

SECTION 10.55.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

(1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.

(2) A delineation of the proposed State and local administrative expenditures.

(3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.

(4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.

(5) A projection of current year expenditures by program or activity.

(6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 10.55.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Department shall not propose funding for new programs or activities not appropriated in this section or increase State administrative expenditures.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall reduce State administration by at least the percentage of the reduction in federal funds. After determining the State administration, the remaining reductions shall be allocated proportionately across the program and activity appropriations identified for that Block Grant in this section. In allocating a decrease in federal fund availability, the Department shall not eliminate the funding for a program or activity appropriated in this section unless it is related to the State administration.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.55.(d) All changes to the budgeted allocations to the Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and a report shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. All changes to the budgeted allocations to the Block Grant shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)

SECTION 10.55.(e) The sum of seven hundred sixty-two thousand six hundred twenty-six dollars ($762,626) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 10.55.(f) The sum of two million two hundred thousand dollars ($2,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to provide domestic violence services to Work First

recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars ($75,000) in TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2007. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars ($5,000); and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2007, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2007. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

SECTION 10.55.(g) The sum of two million two hundred forty-nine thousand six hundred forty-two dollars ($2,249,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy, school dropout, and gang participation. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to fund one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration.

SECTION 10.55.(h) The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars ($14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2007-2008 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

SECTION 10.55.(i) The sum of three million dollars ($3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and

Human Services, Special Children Adoption Fund, for the 2007-2008 fiscal year shall be used in accordance with Section 10.31 of this act. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 10.55.(j) The sum of one million eight hundred thousand dollars ($1,800,000) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant for the 2007-2008 fiscal year shall be used to implement N.C. FAST (North Carolina Families Accessing Services through Technology). The N.C. FAST Program involves the entire automation initiative through which families access services and local departments of social services deliver benefits, supervised by the Department of Health and Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance, and Child Development. The statewide automated initiative shall be implemented in compliance with federal regulations in order to ensure federal financial participation in the project. The Department of Health and Human Services shall report on its compliance with this subsection to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2008.

SECTION 10.55.(k) The sum of five hundred thousand dollars ($500,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2007-2008 fiscal year shall be used to expand after-school programs for at-risk children attending middle school. The Department shall develop and implement a grant program to award funds to community-based programs demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and gang participation. These funds shall not be used for training or administration at the State level. All funds shall be distributed to community-based programs, focusing on those communities where similar programs do not exist in middle schools.

SECTION 10.55.(l) In implementing the TANF Block Grant, the Department of Health and Human Services shall review policies, programs, and initiatives to ensure that they support men in their role as fathers and strengthen fathers' involvement in their children's lives. The Department shall encourage county departments of social services to ensure their Work First programs emphasize responsible fatherhood and increased participation by noncustodial fathers.

SECTION 10.55.(m) The sum of five hundred fifty thousand dollars ($550,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for the 2007-2008 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the number of people served and the services received as a result of the receipt of funds. The report shall contain expenditure data, including the amount of funds used for administration and direct training. The report shall also include the number of people who have been employed as a direct result of services provided by Connect, Inc., including the length of employment in the new position. The Department of Health and Human Services shall evaluate the program and ensure that services provided are not duplicative of local employment

security commissions in the nine counties served by Connect, Inc. The evaluation report shall be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2008.

SECTION 10.55.(n) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs for the 2007-2008 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

SECTION 10.55.(o) The Department of Health and Human Services, Division of Social Services, shall continue implementing county demonstration grants that began in the 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the county demonstration grants is to identify best practices that can be used by counties to improve the work participation rates. The Division of Social Services is authorized to establish two time-limited positions to manage the grant award process and monitor the demonstration projects through fiscal year 2009-2010.

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

The Department of Health and Human Services, Division of Social Services, shall report on the status of county demonstration grants implemented pursuant to this subsection to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than February 1, 2008.

SOCIAL SERVICES BLOCK GRANT

SECTION 10.55.(p) Social Services Block Grant funds appropriated to the North Carolina Inter-Agency Council for Coordinating Homeless Programs and the North Carolina Housing Coalition are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.55.(q) The sum of two million seven hundred forty-nine thousand six hundred forty-two dollars ($2,749,642) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2007-2008 fiscal year shall be used to support the existing Support Our Students Program, including gang prevention, and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

SECTION 10.55.(r) The sum of two million five hundred fifty thousand dollars ($2,550,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the

2007-2008 fiscal year shall be used to support various child welfare training projects as follows:

(1) Provide a regional training center in southeastern North Carolina.
(2) Support the Master's Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
(3) Provide training for residential child caring facilities.
(4) Provide for various other child welfare training initiatives.

SECTION 10.55.(s) The sum of eight hundred thirty-eight thousand dollars ($838,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services for the 2007-2008 fiscal year shall be used to purchase services at maternity homes throughout the State.

SECTION 10.55.(t) The sum of two million six hundred forty-nine thousand six hundred sixty-two dollars ($2,649,662) appropriated in this section in the Social Services Block Grant for child caring agencies for the 2007-2008 fiscal year shall be allocated to the State Private Child Caring Agencies Fund.

SECTION 10.55.(u) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SECTION 10.55.(v) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 10.55.(w) The sum of no more than four hundred thousand dollars ($400,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant for the 2007-2008 fiscal year may be used for the operations of the Medical Child Care Pilot.

SECTION 10.55.(x) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.55.(y) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

MENTAL HEALTH BLOCK GRANT

SECTION 10.55.(z) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental

Disabilities, and Substance Abuse Services, for the 2007-2008 fiscal year and the sum of four hundred twenty-two thousand three dollars ($422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 10.10 of this act.

SECTION 10.55.(aa) The Department of Health and Human Services shall contract with the University of North Carolina at Chapel Hill for the purpose of providing psychology student stipends in the amount of fifty thousand dollars ($50,000) for the 2007-2008 fiscal year. Twenty-five thousand dollars ($25,000) of this contract shall be paid from the Mental Health Block Grant.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 10.55.(bb) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2007-2008 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 10.55.(cc) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

SECTION 10.55.(dd) Of the funds appropriated for risk reduction projects, the sum of two hundred fifty thousand dollars ($250,000) shall be used to fund a pilot to do basic education resource and referral for individuals with HIV/AIDS and substance abuse disorder. If substance abuse prevention and treatment carry-forward funds are available, the Department of Health and Human Services shall budget the first two hundred fifty thousand dollars ($250,000) of these funds to adult substance abusers.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SALE OF TIMBER

SECTION 11.1. G.S. 143-64.05(a) reads as rewritten:

"(a) The State agency for surplus property may assess and collect a service charge for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus property and for the transfer or sale of recyclable material. The service charge authorized by this subsection does not apply to the transfer or sale of timber on land owned by the Wildlife Resources ~~Commission.~~ Commission or the Department of Agriculture and Consumer Services."

STUDY STRUCTURE AND MANAGEMENT PRACTICES OF AGRICULTURAL RESEARCH STATIONS AND RESEARCH FARMS

SECTION 11.4.(a) The Performance Evaluation Division of the General Assembly shall study the structure and management practices of the 18 agricultural research stations and research farms currently owned either by North Carolina State

University or the Department of Agriculture and Consumer Services and currently managed by the Department of Agriculture and Consumer Services. This study shall consider ways to achieve efficiency savings and whether it is desirable and feasible to consolidate or transfer to another State department these research stations and research farms.

SECTION 11.4.(b) No later than May 1, 2008, the Performance Evaluation Division of the General Assembly shall prepare a report of the findings and recommendations of the study and submit this report to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

COMMERCIAL AND NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK PROGRAM ADMINISTRATIVE COSTS

SECTION 12.1.(a) G.S. 143-215.94B is amended by adding a new subsection to read:

"(g) The Commercial Fund may be used to support the administrative functions of the program for underground storage tanks under this Part and Part 2B of this Article up to the amounts allowed by law, which amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease shall be correspondingly increased or decreased an amount equal to the legislated increase or decrease in salaries and benefits."

SECTION 12.1.(b) G.S. 143-215.94D is amended by adding a new subsection to read:

"(g) The Noncommercial Fund may be used to support the administrative functions of the program for underground storage tanks under this Part and Part 2B of this Article up to the amounts allowed by law, which amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease shall be correspondingly increased or decreased an amount equal to the legislated increase or decrease in salaries and benefits."

BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND

SECTION 12.2.(a) G.S. 87-98 reads as rewritten:

"§ **87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established ~~within~~ under the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other source and investment interest credited to the Fund.

(b) The Fund may be used to pay for notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well or improved spring that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall

take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business. The ~~funds~~ Fund may also be used by the Department to ~~cover~~ pay the costs of testing of private drinking water wells and improved springs for suspected contamination up to once every three years upon request by a person who uses the well ~~for contamination~~ and for the temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Under this subsection, an alternative drinking water supply includes the repair or replacement of a contaminated well or the connection to a public water supply.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The ~~funds~~ Fund shall not be used for remediation of groundwater contamination. Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination. The Fund shall not be used to provide alternative water supply to households with incomes greater than three hundred percent (300%) of the current federal poverty level. The Fund shall not be used to provide alternative drinking water supplies unless the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the Maximum Contaminant Level, or the federal drinking water action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July 2006) and 40 Code of Federal Regulations § 143.3 (1 July 2006). The Fund shall not be used to provide temporary water supplies in any calendar quarter until all needs for permanent replacement water supplies that have been identified in that calendar quarter have been met through hookups to public water supplies, repair, or replacement of contaminated wells. In disbursing monies from the Fund, preference shall be given to providing permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse ~~funds~~ monies from this Fund and may adopt any rules necessary to implement this section.

(e) The Department, in consultation with the Commission for Health Services and local health departments, shall report no later than 1 October of each year to the Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action."

SECTION 12.2.(b) The first report required by G.S. 87-98(e), as enacted by subsection (a) of this section, shall be submitted on or before 1 October 2008.

FUNDS FOR PENDING CIVIL LITIGATION EXPENSES

SECTION 12.2A. Notwithstanding G.S. 143-215.3A, of the funds available in the Water and Air Quality Account for the costs of administering the air quality program, the Department of Environment and Natural Resources shall transfer the sum

of one million dollars ($1,000,000) for the 2007-2008 fiscal year to the Office of State Budget and Management's Litigation Reserve. These funds shall be used solely by the Department of Justice for expenses related to litigation and expert witnesses associated with either of the actions pending in North Carolina ex rel. Cooper v. Tennessee Valley Authority, No. 1:06CV20 (W.D.N.C. filed Jan. 30, 2006) or South Carolina v. North Carolina, No. 22O138 ORG (U.S. Sup. Ct. filed June 7, 2007). Any of these funds that remain unused for this purpose on June 30, 2008, shall revert to the Water and Air Quality Account.

NEW LEASE PURCHASE/INSTALLMENT CONTRACTS FOR FORESTRY EQUIPMENT

SECTION 12.4. Prior to the Division of Forest Resources of the Department of Environment and Natural Resources entering into either a new lease purchase contract for the purchase of forestry equipment or a new installment contract for the purchase of forestry equipment, the Division of Forest Resources shall submit a detailed list of the forestry equipment to be purchased under the contract to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Prior to the Department of Administration entering into either a new lease purchase contract for the purchase of forestry equipment or a new installment contract for the purchase of forestry equipment on behalf of the Division of Forest Resources, the Department of Administration shall submit a detailed list of the forestry equipment to be purchased under the contract to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. If a list is modified after it is submitted under this section, the modified list shall be submitted to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division prior to entering into the contract.

GRASSROOTS SCIENCE PROGRAM

SECTION 12.5.(a) Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million nine hundred six thousand three hundred forty dollars ($3,906,340) for the 2007-2008 fiscal year and the sum of three million four hundred eighty-one thousand three hundred forty dollars ($3,481,340) for the 2008-2009 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2007-2008	2008-2009
Aurora Fossil Museum	$59,057	$59,057
Cape Fear Museum	$161,007	$161,007
Carolina Raptor Center	$112,174	$112,174
Catawba Science Center	$146,356	$146,356
Colburn Earth Science Museum, Inc.	$74,545	$74,545
Core Sound Waterfowl Museum	$50,000	$50,000
Discovery Place	$662,865	$662,865
Eastern NC Regional Science Center	$350,000	$50,000
Fascinate-U	$81,072	$81,072
Granville County Museum Commission, Inc.–Harris Gallery	$56,422	$56,422
Greensboro Children's Museum	$135,076	$135,076
The Health Adventure Museum of Pack		

Place Education, Arts and Science Center, Inc.	$155,611	$155,611
Highlands Nature Center	$79,268	$79,268
Imagination Station	$86,034	$86,034
The Iredell Museums, Inc.	$61,306	$61,306
Kidsenses	$81,282	$81,282
Museum of Coastal Carolina	$78,020	$78,020
The Natural Science Center of Greensboro, Inc.	$311,354	$186,354
North Carolina Museum of Life and Science	$379,826	$379,826
Pisgah Astronomical Research Institute	$50,000	$50,000
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	$50,000	$50,000
Rocky Mount Children's Museum	$72,254	$72,254
Schiele Museum of Natural History and Planetarium, Inc.	$229,547	$229,547
Sci Works Science Center and Environmental Park of Forsyth County	$146,499	$146,499
Sylvan Heights Waterfowl Park and Eco-Center	$50,000	$50,000
Western North Carolina Nature Center	$112,879	$112,879
Wilmington Children's Museum	$73,886	$73,886
Total	$3,906,340	$3,481,340

SECTION 12.5.(b) No later than March 1, 2008, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The operating budget for the 2006-2007 fiscal year.

(2) The operating budget for the 2007-2008 fiscal year.

(3) The total attendance at the museum during the 2007 calendar year.

SECTION 12.5.(c) No later than March 1, 2009, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The operating budget for the 2007-2008 fiscal year.

(2) The operating budget for the 2008-2009 fiscal year.

(3) The total attendance at the museum during the 2008 calendar year.

SECTION 12.5.(d) As a condition for qualifying to receive funding under this section, all of the following documentation shall be submitted for each museum under this section to the Department of Environment and Natural Resources for fiscal years ending between July 1, 2005, and June 30, 2006, and only those costs that are properly documented under this subsection are allowed by the Department in calculating the distribution of funds under this section:

(1) Each museum under this section shall submit its IRS (Internal Revenue Service) Form 990 to show its annual operating expenses, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report.

(2) Each friends association of a museum under this section shall submit its IRS Form 990 to show its reported expenses for the museum, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report, unless the association does not have both an IRS Form 990 and an annual report available, in which case, it shall submit either an IRS Form 990 or an annual report.

(3) The chief financial officer of each county or municipal government that provides funds for the benefit of the museum shall submit a detailed signed statement of documented costs spent for the benefit of the museum that includes documentation of the name, address, title, and telephone number of the person making the assertion that the museum receives funds from the county or municipality for the benefit of the museum.

(4) The chief financial officer of each county or municipal government or each friends association that provides indirect or allocable costs that are not directly charged to a museum under this section but that benefit the museum shall submit in the form of a detailed statement enumerating each cost by type and amount that is verified by the financial officer responsible for the completion of the documentation and that includes the name, address, title, and telephone number of the person making the assertion that the county, municipality, or association provides indirect or allocable costs to the museum.

SECTION 12.5.(e) As used in subsection (d) of this section, "friends association" means a nonprofit corporation established for the purpose of supporting and assisting a museum that receives funding under this section.

SECTION 12.5.(f) The Fiscal Research Division shall study the current formula used to calculate the allocations for members of the Grassroots collaborative and shall report no later than January 15, 2008, its findings and any recommendations for revising this formula to be used for the 2008-2009 fiscal year to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives.

BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 12.5A. Of the funds appropriated in this act to the Department of Environment and Natural Resources, the sum of three hundred forty-nine thousand dollars ($349,000) for the 2007-2008 fiscal year and the sum of three hundred forty-nine thousand dollars ($349,000) for the 2008-2009 fiscal year shall be allocated to the Wildlife Resources Commission to be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars ($25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

RETAIN EARNINGS OF PARKS AND RECREATION TRUST FUND

SECTION 12.8. G.S. 113-44.15(a) reads as rewritten:

"(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the

General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund."

STUDY ADVISABILITY OF ADDING DEEP RIVER STATE TRAIL TO STATE PARKS SYSTEM

SECTION 12.9. The Department of Environment and Natural Resources, Division of Parks and Recreation, shall study the advisability of the General Assembly authorizing the addition of the Deep River State Trail to the State Parks System, as provided in G.S. 113-44-14. In the course of the study, the Division shall consider the cost over the next five years of land acquisition, park development, and park operations. The Department shall report the results of this study to the Joint Legislative Commission on Governmental Operations by March 1, 2008.

PART XIII. DEPARTMENT OF COMMERCE

ONE NORTH CAROLINA FUND

SECTION 13.1.(a) Of the funds appropriated in this act to the One North Carolina Fund for the 2007-2008 fiscal year, the Department of Commerce may use up to three hundred thousand dollars ($300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2007-2008 fiscal year.

SECTION 13.1.(b) Of the funds appropriated in this act to the One North Carolina Fund for the 2007-2008 fiscal year, the sum of six hundred fifty thousand dollars ($650,000) shall be transferred to the Department of Environment and Natural Resources, Division of Information Technology Services, for the development of a Tier II hazardous chemicals inventory database and Web-based access application.

SECTION 13.1.(c) If any One North Carolina funds that have been previously awarded and disbursed are recovered by the Department of Commerce during the 2007-2008 fiscal year, the Department of Commerce may use up to one million dollars ($1,000,000) of the recovered funds to supplement the Department's budget for statewide economic development marketing and business assistance, including continued development and maintenance of the Department's Web site, development of software and systems to improve service to North Carolina businesses, and the promotion of North Carolina nationally and internationally as a location for business growth and expansion through advertising, events-related marketing, and hosting international economic development conferences.

TEMPORARY EXPANSION OF JDIG CAP

SECTION 13.1A. Notwithstanding G.S. 143B-437.52(c), the maximum amount of total annual liability for grants for agreements entered into in calendar year 2007 under the Job Development Investment Grant Program, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed twenty-five million dollars ($25,000,000).

NC GREEN BUSINESS FUND

SECTION 13.2.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2B. NC Green Business Fund.

"**§ 143B-437.4. NC Green Business Fund established as a special revenue fund.**

(a) Establishment. – The NC Green Business Fund is established as a special revenue fund in the Department of Commerce, and the Department shall be responsible for administering the Fund.

(b) Purposes. – Moneys in the NC Green Business Fund shall be allocated pursuant to this subsection. The Department of Commerce shall make grants from the Fund to private businesses with less than 100 employees, nonprofit organizations, local governments, and State agencies to encourage the expansion of small to medium size businesses with less than 100 employees to help grow a green economy in the State. Moneys in the NC Green Business Fund shall be used for projects that will focus on the following three priority areas:

(1) To encourage the development of the biofuels industry in the State. The Department of Commerce may make grants available to maximize development, production, distribution, retail infrastructure, and consumer purchase of biofuels in North Carolina, including grants to enhance biofuels workforce development.

(2) To encourage the development of the green building industry in the State. The Department of Commerce may make grants available to assist in the development and growth of a market for environmentally conscious and energy efficient green building processes. Grants may support the installation, certification, or distribution of green building materials; energy audits; and marketing and sales of green building technology in North Carolina, including grants to enhance workforce development for green building processes.

(3) To attract and leverage private-sector investments and entrepreneurial growth in environmentally conscious clean technology and renewable energy products and businesses, including grants to enhance workforce development in such businesses.

"**§ 143B-437.5. Green Business Fund Advisory Committee.**

The Department of Commerce may establish an advisory committee to assist in the development of the specific selection criteria and the grant-making process of the NC Green Business Fund.

"**§ 143B-437.6. Agreements required.**

Funds may be disbursed from the NC Green Business Fund only in accordance with agreements entered into between the Department of Commerce and an eligible grantee. Each agreement must contain the following provisions:

(1) A description of the acceptable uses of grant proceeds. The agreement may limit the use of funds to specific purposes or may allow the funds to be used for any lawful purposes.

(2) A provision allowing the Department of Commerce to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.

(3) A provision establishing the method for determining compliance with the agreement.

(4) A provision establishing a schedule for disbursement of funds under the agreement.

(5) A provision requiring recapture of grant funds if a grantee subsequently fails to comply with the terms of the agreement.

(6) Any other provision the State finds necessary to ensure the proper use of State funds.

"**§ 143B-437.7. Program guidelines.**

The Department of Commerce shall develop guidelines related to the administration of the NC Green Business Fund and to the selection of projects to receive allocations from the Fund, including project evaluation measures. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

"**§ 143B-437.8. Reports.**

Grants made to non-State entities through the NC Green Business Fund shall be subject to the oversight and reporting requirements of G.S. 143C-6-23. The Department of Commerce shall publish a report on the commitment, disbursement, and use of funds allocated from the NC Green Business Fund at the end of each fiscal year. The report is due no later than September 1 and must be submitted to the following:

(1) The Joint Legislative Commission on Governmental Operations.

(2) The chairs of the House of Representatives and Senate Finance Committees.

(3) The chairs of the House of Representatives and Senate Appropriations Committees.

(4) The Fiscal Research Division of the General Assembly.

"**§§ 143B-437.9 through 143B-437.11: Reserved for future codification purposes.**"

SECTION 13.2.(b) G.S. 147-68(d1) reads as rewritten:

"(d1) The Treasurer shall report to the Joint Legislative Commission on Governmental Operations, ~~to the Chairman, Appropriations Base Budget Committee and the Chairman, Appropriations Expansion Budget Committee of the House of Representatives, and to the Chairman, Committee on Appropriations and the Chairman, Committee on Base Budget of the Senate~~the chairs of the House of Representatives and Senate Appropriations Committees, the chairs of the House of Representatives and Senate Finance Committees, and the Fiscal Research Division of the General Assembly, on a quarterly basis, concerning all investments and deposits made by and through his office. The report shall include a listing of all investments with or on behalf of the State or any of its agencies or institutions and shall include the particular agency or institution, fund, rate of return, duration of the investment, and the amount of deposit on all noninterest bearing accounts. The first report is due 90 days after July 1, 1982, and shall include all investments and deposits made during the 1981-82 fiscal year and all investments made during the first quarter of the 1982-83 fiscal year; thereafter, reports shall be made on a quarterly basis including all investments and deposits made during that reporting period. The report shall include a specific listing of all investments made with certified green managers and companies and funds that support sustainable practices, including the names of the companies, managers, and funds, the amount invested, and the State's return on investment."

SECTION 13.2.(c) G.S. 150B-1(d) is amended by adding the following new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

…

(17) The Department of Commerce in developing guidelines for the NC Green Business Fund under Part 2B of Article 10 of Chapter 143B of the General Statutes."

SECTION 13.2.(d) Of the funds appropriated in this act to the NC Green Business Fund, the Department of Commerce may use up to fifty thousand dollars ($50,000), if necessary, to cover the Department's expenses in administering the NC Green Business Fund.

EXECUTIVE AIRCRAFT/USES

SECTION 13.3. Part 2 of Article 10 of Chapter 143B is amended by adding a new section to read:

"**§ 143B-437.011. Executive aircraft used for economic development; other uses.**

The use of executive aircraft by the Department of Commerce for economic development purposes shall take precedence over all other uses. The Department of Commerce shall annually review the rates charged for the use of executive aircraft and shall adjust the rates, as necessary, to account for upgraded aircraft and inflationary increases in operating costs, including jet fuel prices. If an executive aircraft is not being used for economic development purposes, priority of use shall be given first to the Governor, second to the Council of State, and third to other State officials traveling on State business. If an executive aircraft is used to attend athletic events or for any other purpose related to collegiate athletics, the rate charged shall be equal to the direct cost of operating the aircraft as established by the aircraft's manufacturer, adjusted for inflation."

WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

SECTION 13.3A.(a) Funds appropriated to the Department of Commerce for the 2006-2007 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

SECTION 13.3A.(b) Funds appropriated to the Department of Commerce for the 2006-2007 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for securing adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

SECTION 13.3A.(c) This section becomes effective June 30, 2007.

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION 13.4.(a) Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the 2007-2008 fiscal year shall not exceed two million five hundred thousand dollars ($2,500,000).

SECTION 13.4.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of seven million three hundred thousand dollars ($7,300,000) for the 2007-2008 fiscal year to be used for the following purposes:

(1) Seven million dollars ($7,000,000) for the operation and support of local offices.

(2) Two hundred thousand dollars ($200,000) for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs.

(3) One hundred thousand dollars ($100,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

SECTION 13.4.(c) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed two million five hundred thousand dollars ($2,500,000) for the 2007-2008 fiscal year to fund State initiatives not currently funded through federal grants.

SECTION 13.4.(d) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed three hundred fifty thousand dollars ($350,000) for the 2007-2008 fiscal year to allow the Commission to continue to work with Connect, Inc., to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.

SECTION 13.4.(e) This section becomes effective July 1, 2007.

INDUSTRIAL COMMISSION STRATEGIC PLAN/REPORT

SECTION 13.4A.(a) G.S. 97-78 is amended by adding two new subsections to read:

"(f) No later than April 1, 2008, the Commission shall prepare and implement a strategic plan for accomplishing all of the following:

(1) Tracking compliance with the provisions of G.S. 97-18(b), (c), and (d), and establishing a procedure to enforce compliance with the requirements of these subsections.

(2) Expeditiously resolving requests for, or disputes involving, medical compensation under G.S. 97-25, including selection of a physician,

change of physician, the specific treatment involved, and the provider of such treatment.

(g) The Commission shall demonstrate its success in implementing its strategic plan under subsection (f) of this section by including all of the following in its annual report under subsection (e) of this section:

(1) The total number of claims made during the preceding calendar year, the total number of claims in which compliance was not timely made, and, for each claim, the date the claim was filed, the date by which compliance was required, the date of actual compliance, and any sanctions or other remedial action imposed by the Commission.

(2) The total number of requests for, and disputes involving, medical compensation under G.S. 97-25 in which final disposition was not made within 45 days of the filing of the motion with the Commission, and, for each such request or dispute, the date the motion or other initial pleading was filed, the date on which final disposition was made and, where reasonably ascertainable, the date on which any ordered medical treatment was actually provided."

SECTION 13.4A.(b) G.S. 97-78(e) reads as rewritten:

"(e) ~~The~~ No later than October 1 of each year, the Commission shall publish annually for free distribution a report of the administration of this Article, together with such recommendations as the Commission deems advisable. No later than October 1 of each year, the Commission shall submit this report to the Joint Legislative Commission on Governmental Operations."

NORTH CAROLINA CENTER FOR AUTOMOTIVE RESEARCH/FUNDS SHALL NOT REVERT

SECTION 13.5.(a) Funds appropriated to the North Carolina Center for Automotive Research, Inc., (Center) for the 2005-2006 fiscal year and for the 2006-2007 fiscal year that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available at the Department of Commerce.

SECTION 13.5.(b) Of the funds appropriated to the North Carolina Center for Automotive Research for the 2005-2006 fiscal year and for the 2006-2007 fiscal year, the Department of Commerce, with approval from the Office of State Budget and Management, may, subject to the provisions of subsection (c) of this section, allocate the remaining appropriated funds to the Center when the Office of State Budget and Management, in consultation with the Department of Commerce, determines the Center has completed goals and projects consistent with the Center's business plan. The goals and projects shall include the following:

(1) The Center has obtained legal title to the property on which the Center will be built.

(2) The Center has determined and provided for the critical infrastructure needed to support the Center.

(3) The Center has entered into a contract for the use and operation of a testing facility that will create new private sector jobs in Tier 1 or Tier 2 counties.

SECTION 13.5.(c) No funds shall be released by the Office of State Budget and Management under subsection (b) of this section until a board of directors for the

Center consisting of no fewer than five members representing five different organizations is appointed and operating.

SECTION 13.5.(d) The Center shall file with the Department of Commerce a copy of the Center's policy addressing conflicts of interest that may arise involving the Center's management employees and members of the Center's board of directors or other governing body before funds may be allocated to the Center. The policy shall address situations in which any of the Center's management employees and members of the board of directors or other governing body may directly or indirectly benefit, except as Center employees or members of the board or other governing body, from the Center's disbursing of State funds and shall include actions to be taken by the Center or the employee or member, or both, to avoid conflicts of interest and the appearance of impropriety.

SECTION 13.5.(e) By December 31, 2007, and April 30, 2008, the Center shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division the following information: (i) fiscal year 2007-2008 projects, objectives, and accomplishments; and (ii) fiscal year 2007-2008 itemized expenditures and fund sources. The April 30, 2008, report shall also contain the following information: (i) fiscal year 2008-2009 planned projects, objectives, and accomplishments; and (ii) fiscal year 2008-2009 estimated expenditures and fund sources.

SECTION 13.5.(f) The Center shall also provide to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement and a copy of the Center's IRS Form 990.

SECTION 13.5.(g) The Center shall provide a report containing detailed budget information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests. The Center shall provide specific salary information upon the written request of the chairs of the Joint Legislative Commission on Governmental Operations and the chairs of the House Appropriations Committee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources.

COUNCIL OF GOVERNMENT FUNDS

SECTION 13.6.(a) Of the funds appropriated in this act to the Department of Commerce, eight hundred thirty-two thousand one hundred fifty dollars ($832,150) for the 2007-2008 fiscal year and eight hundred thirty-two thousand one hundred fifty dollars ($832,150) for the 2008-2009 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand nine hundred fifty dollars ($48,950) for the 2007-2008 and the 2008-2009 fiscal years.

SECTION 13.6.(b) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

SECTION 13.6.(c) Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2007, and the second subsequent to acceptable submission of the annual report due to the Joint

Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2008, as specified in subdivision (e)(1) of this section.

SECTION 13.6.(d) Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

SECTION 13.6.(e) Each council of government or lead regional organization shall do the following:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
   b. State fiscal year 2006-2007 itemized expenditures and fund sources;
   c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
   d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
   b. State fiscal year 2007-2008 itemized expenditures and fund sources;
   c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
   d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 13.7.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Partnership, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

SECTION 13.7.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and

(2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of three hundred thirty thousand seven hundred fifty dollars ($330,750) in the 2007-2008 fiscal year, which sum represents: (i) the total interest earnings in the prior fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of three hundred thirty thousand seven hundred fifty dollars ($330,750) in the 2007-2008 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

SECTION 13.7.(c) No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

SECTION 13.7.(d) No later than September 1, 2007, the Department of Commerce shall submit a report in writing on the implementation of the provisions of G.S. 158-8.6 to the chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, the Office of State Budget and Management, and the Fiscal Research Division. The Department shall include in the report a detailed plan to address any impediments to the development of uniform standards for the commissions.

SECTION 13.7.(e) The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

SECTION 13.7.(f) The Performance Evaluation Division of the General Assembly shall study the structure and funding of the seven regional economic development commissions. In conducting the study, the Division shall consider the availability and utilization of non-State funding sources and shall make recommendations concerning the commissions' funding, including whether State funding should be recurring or nonrecurring. No later than May 1, 2008, the Division

shall submit a report of its findings and recommendations to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division. The chairs of the House and Senate Appropriations Committees shall take into consideration the results of the study when developing the budget for the 2008-2009 fiscal year.

SECTION 13.7.(g) G.S. 158-8.5 reads as rewritten:

"§ **158-8.5. Annual reporting requirement.**

By February 15 of each year, the commissions created pursuant to G.S. 158-8.1, 158-8.2, 158-8.3, and 158-33 shall publish a report containing the information required by this section. As a condition on the receipt of State funds, the Charlotte Regional Partnership, Inc., the Piedmont Triad Regional Partnership, and the Research Triangle Regional Partnership shall, by February 15 of each year, publish a report containing the information required by this section. The commissions and partnerships shall also submit a copy of the report to the Department of Commerce, the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Economic Development Oversight Committee, and the Fiscal Research Division of the General Assembly. The report shall include all of the following:

(1) A summary of the preceding year's program activities, objectives, and accomplishments.

(2) The preceding fiscal year's itemized expenditures ~~of State funds.~~and fund sources. Itemized expenditures shall be reported separately for each fund source.

(3) A demonstration of how the commission's or partnership's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.

(4) A demonstration of how the commission's or partnership's involvement in promotion activities has generated leads.

(5) The most recent audited annual financial statement regarding State funds.

(6) A demonstration of the commission's efforts to obtain funds from local, private, and federal sources."

KERR-TAR REGIONAL ECONOMIC DEVELOPMENT CORPORATION/REPORTING REQUIREMENTS

SECTION 13.9. The Kerr-Tar Regional Economic Development Corporation shall do the following:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;

b. State fiscal year 2006-2007 itemized expenditures and fund sources;

c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments including actual results through December 31, 2007; and

d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
   b. State fiscal year 2007-2008 itemized expenditures and fund sources;
   c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments including actual results through December 31, 2008; and
   d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance of the statement.

BIOTECHNOLOGY CENTER

SECTION 13.10.(a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

SECTION 13.10.(b) The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

SECTION 13.10.(c) The North Carolina Biotechnology Center shall:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
   b. State fiscal year 2006-2007 itemized expenditures and fund sources;
   c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
   d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
   b. State fiscal year 2007-2008 itemized expenditures and fund sources;
   c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and

d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.10.(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

NONPROFIT REPORTING REQUIREMENTS

SECTION 13.11.(a) The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., Coalition of Farm and Rural Families, and Partnership for the Sounds, Inc., shall do the following:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;

b. State fiscal year 2006-2007 itemized expenditures and fund sources;

c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments including actual results through December 31, 2007; and

d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;

b. State fiscal year 2007-2008 itemized expenditures and fund sources;

c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments including actual results through December 31, 2008; and

d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.11.(b) No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2007. Fourth quarter allotments

shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2008, or January 15, 2009.

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.12.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million twenty-five thousand six hundred ninety-seven dollars ($2,025,697) for the 2007-2008 fiscal year and the sum of two million twenty-five thousand six hundred ninety-seven dollars ($2,025,697) for the 2008-2009 fiscal year shall be allocated as follows:

	2007-2008	2008-2009
Research and Demonstration Grants	$370,000	$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	604,298	604,298
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000
Institute for Rural Entrepreneurship	144,000	144,000.

SECTION 13.12.(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

SECTION 13.12.(c) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

SECTION 13.12.(d) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million four hundred fifteen thousand nine hundred ten dollars ($2,415,910) for the 2007-2008 fiscal year and the sum of two million four hundred fifteen thousand nine hundred ten dollars ($2,415,910) for the 2008-2009 fiscal year shall be allocated as follows:

(1) $1,047,410 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any new or previously funded community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:
   a. $997,410 for direct grants to local community development corporations to support operations and project activities.
   b. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.

(2) $195,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and

(3) $983,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subsection. The Center shall allocate these funds as follows:
   a. $675,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
      1. Necessary economic development projects and activities in economically distressed areas;
      2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure-pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar-for-dollar basis in the amount of the grant awarded; or
      3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.
   b. $208,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.
   c. $100,000 in each fiscal year to support the update of the statewide water and sewer database and to support the development of a statewide water management plan.

(4) $190,500 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:

a. $75,000 in each fiscal year for operating expenses associated with the Consortium; and
b. $115,500 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.

SECTION 13.12.(e) The Rural Economic Development Center, Inc., shall:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
b. State fiscal year 2006-2007 itemized expenditures and fund sources;
c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
b. State fiscal year 2007-2008 itemized expenditures and fund sources;
c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.

(3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.12.(f) No funds appropriated in this act shall be released to a community development corporation, as defined in this section, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

SECTION 13.13.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of nineteen million five hundred thousand dollars ($19,500,000) for the 2007-2008 fiscal year and the sum of nineteen million five

hundred thousand dollars ($19,500,000) for the 2008-2009 fiscal year shall be allocated as follows:

(1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least fifteen million dollars ($15,000,000) of the funds appropriated in this act for each year of the biennium must be used to provide grants under this Program.

(2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.

(3) To provide economic development research and demonstration grants.

SECTION 13.13.(b) The Rural Economic Development Center, Inc., may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

SECTION 13.13.(c) During each year of the 2007-2009 biennium, the Rural Economic Development Center, Inc., may use up to two percent (2%) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

SECTION 13.13.(d) No later than January 15 of each year, the Rural Economic Development Center, Inc., shall submit an annual report to the Joint Legislative Commission on Governmental Operations concerning the progress of the North Carolina Economic Infrastructure Program.

FUNDS FOR LOCAL GOVERNMENT WATER AND SEWER IMPROVEMENT GRANTS

SECTION 13.13A.(a) Allocation of Funds. – Of the funds appropriated in this act to the Rural Economic Development Center, Inc., (Rural Center) the sum of one hundred million dollars ($100,000,000) for the 2007-2008 fiscal year shall be allocated as follows:

(1) Up to $50,000,000 may be used to provide grants to local government units for wastewater-related projects under subsection (b) of this section.

(2) Up to $50,000,000 may be used to provide grants to local government units for public water system-related projects under subsection (b) of this section.

SECTION 13.13A.(b) Definitions. – The definitions in G.S. 159G-20 and the following definitions apply in this section. In addition, the following definitions shall apply in this section unless otherwise provided:

(1) Ability to pay. – An assessment of the ability of a local government unit to pay for a water infrastructure project as calculated annually by the Division of Community Assistance in the Department of Commerce.

(2) Economically distressed area. – Any of the following:

a. An economically distressed county as defined in G.S. 143B-437.01.
b. That part of a county in which the poverty rate is at least one hundred fifty percent (150%) of the State poverty rate. The poverty rate is the percentage of the population whose income is below the most recent federal poverty level set by the U.S. Bureau of the Census.
c. That part of a county that experiences an actual or imminent loss of jobs in a number equal to or greater than five percent (5%) of the total number of jobs in the part.

(3) Rural county. – A county with a population density of fewer than 250 people per square mile based on the most recent federal decennial census.

SECTION 13.13A.(c) Eligible Applicants; Eligible Projects. – A local government unit is not eligible for a grant under subsection (a) of this section unless it meets the eligibility requirements under subsection (d) or subsection (e) of this section for that type of grant. The funds allocated under this section may be used to provide either a planning grant that meets the requirements under subsection (d) of this section or a supplemental grant that meets the requirements of subsection (e) of this section. The following projects are eligible for receiving a grant under this section:

(1) Wastewater collection system.
(2) Wastewater treatment works.
(3) Public water system.
(4) Wastewater and drinking water infrastructure planning.
(5) Multi-jurisdictional wastewater, drinking water, water quality, and stormwater planning.

SECTION 13.13A.(d) Planning Grants. – A planning grant under this section is available for the costs associated with preliminary planning for wastewater collection system projects, wastewater treatment works projects, and public water system projects. Preliminary planning includes developing a capital improvement plan, developing a comprehensive land-use plan, conducting a study, developing a regional or multi-jurisdictional infrastructure or water quality improvement plan, assembling a financing plan to carry out a project, completing a grant application, and preparing a preliminary engineering report for a proposed project. A planning grant is subject to the following restrictions:

(1) Eligibility. – For purposes of this subsection, a regional council of government organized under G.S. 160A-460 or a regional planning and development commission organized under G.S. 153A-391 is considered a local government unit. A local government unit is eligible for a planning grant if it meets the following criteria:
a. It is a rural county or is located in one of these counties.
b. It is an economically distressed county or is located in an economically distressed county or an economically distressed area.
c. It is applying for a regional or multi-jurisdictional planning project involving two or more units of local government.

(2) Maximum. – A planning grant shall not exceed forty thousand dollars ($40,000) for each unit of local government.

(3) Matching funds. – A local government unit shall match a planning grant on a dollar-for-dollar basis unless the unit meets one or more of the following descriptions, in which instance the Rural Center may require a match of less than fifty percent (50%):
   a. It is an economically distressed county or located in an economically distressed county.
   b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
   c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

SECTION 13.13A.(e) Supplemental Grants. – A supplemental grant is available to match other funds to be applied to the construction costs of an eligible project. Other funds include federal funds, State funds received under Article 2 of Chapter 159G of the General Statutes, and local funds. A supplemental grant is subject to the following restrictions:

(1) Eligibility. – A local government unit is eligible for a supplemental grant if it meets the following criteria:
   a. It is a rural county or is located in one of these counties.
   b. It adopts a resolution to set the household user fee for water and sewer service in the area served by the project at an amount that equals or exceeds the high-unit-cost threshold.

(2) Maximum. – A supplemental grant shall not exceed five hundred thousand dollars ($500,000) unless the applicant meets one or more of these descriptions:
   a. It is an economically distressed county or is located in an economically distressed county.
   b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
   c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

(3) Matching funds. – A local government unit shall match a supplemental grant on a dollar-for-dollar basis unless the unit meets one or more of the following descriptions, in which instance the Rural Center may require a match of less than fifty percent (50%):
   a. It is an economically distressed county or is located in an economically distressed county.
   b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
   c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

SECTION 13.13A.(f) Criteria for Grants. – The criteria in G.S. 159G-23, the criteria set out in this section, and any other criteria established by the Board of Directors of the Rural Center shall apply to a grant provided under this section. An application for a project that serves an economically distressed area shall have priority over a project that does not.

SECTION 13.13A.(g) Grant Applications. – Any application for a grant under this section shall be submitted by the local government unit to the Rural Center. An application shall be submitted on a form prescribed by the Rural Center, and shall contain the information required by the Rural Center. An applicant shall submit to the

Rural Center, any additional information requested by the Rural Center to enable the Rural Center to make a determination on the application. An application that does not contain information required on the application or requested by the Rural Center is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this section.

SECTION 13.13A.(h) Environmental Assessment. – An application submitted under this section for any grant other than a planning grant for a project under subdivision (b)(4) or (b)(5) of this section shall state whether the project to be funded by the grant requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. The Rural Center, shall give the Department of Environment and Natural Resources a copy of an application that indicates an environmental assessment is not required. If the Department of Environment and Natural Resources determines that the project requires an environmental assessment, the Department shall notify the Rural Center, and the applicant, and the applicant shall submit the assessment to the Department before the Center continues its review of the application.

An application that does not identify an exclusion in the North Carolina Environmental Policy Act shall include the environmental assessment of the project's probable impacts on the environment that was submitted to the Department of Environment and Natural Resources. If the Department notifies the Rural Center that an environmental impact statement is required, the Rural Center shall not award the applicant a grant until a final environmental assessment impact statement has been completed and approved as provided in the Environmental Policy Act.

SECTION 13.13A.(i) Review of Applications and Award of Grant. –

(1) Point Assignment. – The Rural Center shall review all grant applications submitted under this section for an application period, to be determined by the Rural Center, and shall rank each application in accordance with the points assigned to the evaluation criteria. The Rural Center shall make a written determination of an application's rank and attach the determination to the application. The Rural Center's determination of rank is conclusive.

(2) Reconsideration. – When an application's rank is too low to receive an award of a grant for the application period, the Rural Center may reconsider an amended application, provided the application addresses questions from the previous grant round.

(3) Notification of Decision. – When the Rural Center determines that an application's rank makes it eligible for an award of a grant, the Rural Center shall send the applicant a letter of intent to award the grant. The notice shall set out any conditions the applicant must meet to receive an award of a grant. When the applicant satisfies the conditions set out in the letter of intent, the Rural Center shall send the applicant an offer to award a grant. The applicant shall give the Rural Center written notice of whether it accepts or rejects the offer. A grant is considered awarded the date the offer to award the grant is sent by the Rural Center.

SECTION 13.13A.(j) Disbursement of Grant. – A planning grant awarded under this section may be disbursed in one payment. Other grants awarded under this section shall be disbursed in two or more payments based on the progress of the project

for which the grant was awarded. To obtain a payment, a grant recipient shall submit a request for payment to the Rural Center and shall document the expenditures for which the payment is requested. The Rural Center shall review the payment request for compliance with all grant conditions.

SECTION 13.13A.(k) Withdrawal of Grant. – An award for a grant for a project is withdrawn if the applicant fails to enter into a construction contract for the project within one year after the date of the award for supplemental grants under subsection (d) of this section, unless the Board of Directors of the Rural Center finds that the applicant has good cause for the failure. If the Rural Center finds good cause for an applicant's failure, the Rural Center shall set a date by which the applicant must take action or forfeit the grant. This subsection does not apply to a planning grant for a project under subdivision (b)(4) or (b)(5) of this section.

SECTION 13.13A.(l) Inspection of Project. –

(1) Authority. – The Rural Center may inspect a project for which it awards a grant under this section to determine the progress made on the project and whether the construction of the project is consistent with the project described in the grant application. The inspection may be performed by personnel of the Rural Center or by a professional engineer licensed under Chapter 89C of the General Statutes.

(2) Disqualification. – An individual may not perform an inspection of a project under this section if the individual meets any of the following criteria:

a. Is an officer or employee of the local government unit that received the grant award for the project.

b. Is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of the project for which the grant was made.

SECTION 13.13A.(m) The Rural Center may use a portion of the funds allocated under this section for administration, not to exceed two percent (2%), for the life of the grant program created by this section. Of these funds for administrative costs, the sum of two hundred fifty thousand dollars ($250,000) may be used to fund the ongoing work of the State Water Infrastructure Commission in the 2007-2008 fiscal year.

SECTION 13.13A.(n) Reporting Requirement. – The Rural Center shall report to the Joint Legislative Commission on Governmental Operations on a quarterly basis concerning the progress of the grant program created under this section. The first report is due no later than December 1, 2007.

SECTION 13.13A.(o) Separate Accounts. – Each grant that is provided under this section shall be administered through a separate account.

SECTION 13.13A.(p) Loans Prohibited. – The Rural Center shall not use the funds allocated under this section to make loans.

RURAL ECONOMIC DEVELOPMENT CENTER FUNDS

SECTION 13.14.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million dollars ($19,000,000) for the 2007-2008 fiscal year shall be used to expand the North Carolina Rural Economic Infrastructure Fund with targeted priority to severely distressed rural areas.

SECTION 13.14.(b) The Rural Center shall use the funds appropriated in this act to establish and implement the Rural Economic Transition Program. This program shall provide grants and equity investments to carry out transformative economic development and agricultural enhancement projects that will generate jobs and expand business activity.

SECTION 13.14.(c) Units of local government and nonprofit organizations in rural areas are eligible for grants, with priority to applicants in development tier one areas as defined in G.S. 143B-437.08.

SECTION 13.14.(d) Priority for grant funds shall be given to economic development projects that satisfy one or more of the following criteria:

(1) It is located in a county or census area with a persistently high poverty rate of at least one hundred fifty percent (150%) of the State's poverty rate according to the most recent decennial census.

(2) It is located in a community that has experienced a sudden and severe economic downturn as reflected in numbers of business closings, layoffs, and unemployment rate during the previous 12 months.

(3) It is located in a small town with a population under 10,000, an agrarian growth zone as defined in G.S. 143B-437.10, or an urban progress zone as defined in G.S. 143B-437.09.

(4) It is identified in community-based strategic planning efforts and coordinated with other economic development and community-building initiatives, such as the North Carolina Rural Economic Development Center Small Town Economic Prosperity Program, the North Carolina Department of Commerce 21st Century Communities Program, the North Carolina Department of Commerce Main Street Program, and federally funded Comprehensive Economic Development Strategies.

(5) It is supportive of strategies to expand entrepreneurial small business activity based on the natural, cultural, or historical assets of the community.

(6) It has the ability to demonstrate benefits to small farm business diversifying into value-added production and marketing, and it increases opportunities in food and beverage manufacturing and distribution for small farm entrepreneurs.

SECTION 13.14.(e) Eligible units of local government and nonprofit organizations are not required to match grants received under this section, but shall demonstrate the commitment of other funds to the project.

SECTION 13.14.(f) Up to twenty percent (20%) of the funds appropriated in this section may be used for equity investments and loans through the Rural Venture Fund to private business ventures that will substantially transform and improve the economic status of rural areas, with priority to businesses locating or expanding in development tier one areas as defined in G.S. 143B-437.08.

SECTION 13.14.(g) The Rural Center may use a portion of the funds appropriated under this section, not to exceed four percent (4%), for administration of the programs created by this section.

SECTION 13.14.(h) The Rural Center may contract with other State agencies and branches of The University of North Carolina for certain aspects of the programs created under this section, including the design of program guidelines and evaluation of program results.

SECTION 13.14.(i) The Rural Center shall report to the Joint Legislative Commission on Governmental Operations on a quarterly basis concerning the progress of the programs created under this section. The first report is due no later than February 15, 2008.

STUDY EQUINE INDUSTRY IN NORTH CAROLINA

SECTION 13.14A.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five hundred thousand dollars ($500,000) for the 2007-2008 fiscal year shall be allocated to the Agricultural Advancement Consortium for the purpose of assessing the numbers, composition, and value of the equine industry in North Carolina, analyzing the direct and indirect impact of the industry on the State's economy, and developing a comprehensive plan to maximize the economic opportunities presented by the industry.

SECTION 13.14A.(b) The assessment of the equine industry shall provide data on both a statewide and countywide basis. The assessment shall include the following:

(1) A census of equines in the State, including numbers, breeds, and disciplines.
(2) The value of equines in the State.
(3) The number of equine owners.
(4) The number of equine operations.
(5) The size of equine operations.
(6) The total acreage devoted to equine operations.
(7) The value of equine-related assets.
(8) The number of equines and owners participating in various activities within the State.
(9) An analysis of the economic impact of the existing exhibition facilities including the Hunt Horse Complex, the Senator Bob Martin Horse Complex, the WNC Agricultural Center, and the Carolina Horse Park.
(10) An analysis of the programs, contributions, and industry support provided by the North Carolina State University College of Veterinary Medicine and other equine programs, at both private and public education institutions including the College of Agriculture and Life Sciences at North Carolina State University, Martin Community College, and St. Andrews College.
(11) An analysis of the economic impact of breeding, training, and other horse operations.
(12) An analysis of the economic impact of services provided to the equine industry including farrier, veterinary, design and planning, farm management and consulting, show management, and other services related to equines and equine operations.
(13) An analysis of the economic impact, including manufacturing, agricultural production and employment, and wholesale and retail sales, of the purchase of equines, feed and grain, hay, tack and other horse equipment, riding clothes, insurance, vehicles and trailers, farm and pasture inputs, capital improvements such as barns, sheds, and fencing, and real estate, including planned equestrian communities.

(14) An analysis of the economic impact of other recreational uses of equines, including trail riding, camping with horses, therapeutic riding programs, other recreational activities, and equine-related agritourism.

(15) An analysis of the impact of the equine industry on State and local governments including the generation of tax revenues.

SECTION 13.14A.(c) The Agricultural Advancement Consortium, in developing a plan to maximize the economic impact of the equine industry, shall:

(1) Evaluate existing equine-related facilities, programs, and services in the State and make recommendations for enhancing those facilities, programs, and services so as to maximize their economic impact on the State.

(2**)** Identify opportunities for the growth of the equine industry, including the production of feed crops, improved pasture, and high quality horse hays, attracting industry engaged in the production of horse-related products, equipment, and pharmaceuticals, the addition of exhibition and show facilities, including the development of a world-class equestrian park, and other horse-related programs, activities, and facilities, and evaluate the potential economic contribution to the State's economy of each of these potential undertakings.

(3) Evaluate the need to create an equine industry board tasked with the market development, education, publicity, research, and promotion of the North Carolina equine industry and other such measures it deems appropriate to promote the objectives, findings, and recommendations of the equine industry survey and analysis.

(4) Evaluate the laws, rules, and policies that impact equine owners and persons engaged in equine activities, including land-use policies, preservation of trails, use of State recreational facilities, and tax credits and make recommendations directed toward making North Carolina more attractive to equine operations and activities.

SECTION 13.14A.(d) The Agricultural Advancement Consortium may contract with other agencies of State government, any of the constituent institutions of The University of North Carolina, and private consultants as it deems necessary and advisable in its conduct of the assessment and plan development. The Agricultural Advancement Consortium shall complete its work within 12 months of the funds becoming available and shall file a report containing the results of the assessment of the equine industry and its plan for maximizing the economic impact of the equine industry with the Chairs of the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Committees.

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 13.15.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred sixty-one thousand dollars ($361,000) for the 2007-2008 fiscal year and the sum of three hundred sixty-one thousand dollars ($361,000) for the 2008-2009 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers for ongoing job training programs.

SECTION 13.15.(b) For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

(1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
   b. State fiscal year 2006-2007 itemized expenditures and fund sources;
   c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
   d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.

(2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
   b. State fiscal year 2007-2008 itemized expenditures and fund sources;
   c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
   d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.

(3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.

(4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

SECTION 13.15.(c) No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section if the Center has any overdue tax debts, as that term is defined in G.S. 105-243.1, at the federal or State level.

E-NC AUTHORITY CONTRACTS/ REPORTING REQUIREMENTS

SECTION 13.16.(a) The e-NC Authority may contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.

SECTION 13.16.(b) The e-NC Authority shall report to the 2008 General Assembly on the following:

(1) The activities necessary to be undertaken in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access high-speed Internet.

(2) An implementation plan for the training of citizens and businesses in distressed urban areas.

(3) The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority shall, by September 30, 2007, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

E-NC AUTHORITY/STAGGER COMMISSION MEMBERS TERMS

SECTION 13.16A.(a) G.S. 143B-437.46(d) reads as rewritten:

"(d) Terms; Commencement; Staggering. – Except as provided in subsection (f) of this section, all terms of office shall commence on ~~January 1, 2004. Each~~ January 1, 2008. For purposes of staggering the terms of office, each appointing officer shall designate one appointee to serve a one-year ~~term.~~term; one appointee to serve a two-year term; and one appointee to serve a three-year term. ~~Members may serve up to four consecutive one-year terms. The appointing officers shall designate their remaining appointees to serve three-year terms. Members may serve up to two consecutive three-year terms.~~ Upon the expiration of each staggered term, each appointing officer shall appoint a member for a term of three years."

SECTION 13.16A.(b) This section becomes effective January 1, 2008, and applies to appointments commencing on or after that date.

WOW E-COMMUNITY DEVELOPMENT CORPORATION PILOT PROGRAM FUNDS

SECTION 13.17.(a) Of the funds appropriated to the e-NC Authority for the 2007-2008 fiscal year, the sum of two hundred ninety thousand dollars ($290,000) shall be transferred to WOW e-Community Development Corporation (WOW e-CDC) for the Windows on the World Technology Center to establish and implement a two-year pilot program that will enable the Windows on the World Technology Center to become the northeastern North Carolina regional technology resource center for indigent rural low-wealth communities through direct engagement. These funds shall be used as follows:

(1) $150,000 for operating expenses of the Windows on the World Technology Center.

(2) $100,000 for the following:

a. Developing, maintaining, and hosting municipal Web sites and a northeastern North Carolina portal.

b. Expanding public access points and digital literacy classes in the northeastern North Carolina Tier I counties.

c. Establishing initiatives in indigent communities to create a sense of urgency concerning digital literacy and information technology.

(3) $40,000 for operations of the Internet service provider.

These funds shall not revert at the end of each fiscal year but shall remain available until expended for the purposes provided in this subsection.

SECTION 13.17.(b) No funds shall be released by the Office of State Budget and Management to WOW e-CDC until the Office of the State Auditor finds

that the WOW e-CDC is in compliance with all recommendations made by the State Auditor regarding fiscal management and internal controls.

SECTION 13.17.(c) WOW e-CDC shall file with the Department of Commerce a copy of WOW e-CDC's policy addressing conflicts of interest that may arise involving WOW e-CDC's management employees and members of WOW e-CDC's board of directors or other governing body before funds may be allocated to WOW e-CDC. The policy shall address situations in which any of WOW e-CDC's management employees and members of the board of directors or other governing body may directly or indirectly benefit, except as WOW e-CDC employees or members of the board or other governing body, from WOW e-CDC's disbursing of State funds, and the policy shall include actions to be taken by WOW e-CDC or the employee or member, or both, to avoid conflicts of interest and the appearance of impropriety.

SECTION 13.17.(e) By April 30, 2008, WOW e-CDC shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division the following information: (i) fiscal year 2007-2008 planned projects, objectives, and accomplishments; and (ii) fiscal year 2007-2008 estimated expenditures and fund sources.

SECTION 13.17.(f) WOW e-CDC shall also provide to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division a copy of WOW e-CDC's annual audited financial statement within 30 days of issuance of the statement and a copy of WOW e-CDC's IRS Form 990.

SECTION 13.17.(g) WOW e-CDC shall provide a report containing detailed budget information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests. WOW e-CDC shall provide specific salary information upon the written request of the chairs of the Joint Legislative Commission on Governmental Operations and the chairs of the House Appropriations Committee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources.

NER BLOCK GRANTS

SECTION 13.18.(a) Appropriations from federal block grant funds are made for fiscal year ending June 30, 2008, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$ 1,000,000
02.	Urgent Needs and Contingency	1,000,000
03.	Scattered Site Housing	13,200,000
04.	Economic Development	7,710,000
05.	Small Business/Entrepreneurship	1,000,000
06.	Community Revitalization	13,500,000
07.	State Technical Assistance	450,000

08.	Housing Development	2,000,000
09.	Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2008 Program Year		$ 45,000,000

SECTION 13.18.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 13.18.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 13.18.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars ($1,000,000) may be used for State Administration; not less than one million dollars ($1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars ($13,200,000) may be used for Scattered Site Housing; seven million seven hundred ten thousand dollars ($7,710,000) may be used for Economic Development; up to one million dollars ($1,000,000) may be used for Small Business/Entrepreneurship; not less than thirteen million five hundred thousand dollars ($13,500,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars ($450,000) may be used for State Technical Assistance; up to two million dollars ($2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars ($5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 13.18.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

SECTION 13.18.(f) The Department of Commerce will operate a small business/entrepreneurship program in coordination with micro-lending programs and other small business assistance groups in the State. The Department of Commerce shall award up to one million dollars ($1,000,000) in grants to local governments to provide assistance to low-to-moderate income individuals for small business and entrepreneurship development as a means of achieving economic independence during these times of structural change in North Carolina's economy.

SECTION 13.18.(g) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made. The Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

SECTION 13.18.(h) G.S. 143B-437.04(a) reads as rewritten:

"(a) The Department of Commerce shall adopt guidelines for the awarding of Community Development Block Grants to ensure that:

(1) No local match is required for grants awarded for projects located in counties that have one of the 25 highest rankings under G.S. ~~143B-437.08 after the adjustments of that section are applied.~~143B-437.08 or counties that have a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census.

(2) To the extent practicable, priority consideration for grants is given to projects located in counties ~~that have one of the 25 highest rankings under G.S. 143B-437.08 after the adjustments of that section are applied~~that have met the conditions of subdivision (a)(1) of this section or in urban progress zones that have met the conditions of subsection (b) of this section."

SECTION 13.18.(i) G.S. 143B-437.01(a)(3) reads as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

…

(3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under G.S. ~~143B-437.08 after the adjustments of that section are applied.~~143B-437.08 or that has a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census."

SECTION 13.18.(j) Subsections (h) and (i) of this section are effective January 1, 2008.

PART XIV. JUDICIAL DEPARTMENT

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

SECTION 14.1. Funds appropriated to the Judicial Department in the 2007-2009 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

GRANT FUNDS

SECTION 14.2. Notwithstanding G.S. 143C-6-9, the Judicial Department may use up to the sum of one million five hundred thousand dollars ($1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

NORTH CAROLINA STATE BAR FUNDS

SECTION 14.3. Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 2007-2009 biennium, the North Carolina State Bar may in its discretion use up to the sum of five hundred one thousand five hundred dollars ($501,500) for the 2007-2008 fiscal year and up to the sum of five hundred one thousand five hundred dollars ($501,500) for the 2008-2009 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1, 2008, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the activities funded by the grant-in-aid authorized by this section.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS/ ESTABLISHMENT OF ADDITIONAL PUBLIC DEFENDER OFFICES

SECTION 14.4.(a) The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred ninety-two thousand three hundred fifty dollars ($2,192,350) in appropriated funds during the 2007-2008 fiscal year and up to the sum of two million eighty-two thousand five hundred ten dollars ($2,082,510) in appropriated funds during the 2008-2009 fiscal year for the expansion of existing or new public defender offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to 20 new attorney positions and 10 new support staff positions. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

SECTION 14.4.(b) Notwithstanding the provisions of G.S. 7A-498.7(a), the Indigent Defense Services Commission may establish additional district public defender offices during the 2007-2009 fiscal biennium. Of the funds appropriated in this act to the Office of Indigent Defense Services, the Office may use up to the sum of one

million five hundred seventy thousand fifty-seven dollars ($1,570,057) during the 2008-2009 fiscal year to establish these offices. These funds may be used for recurring and nonrecurring personnel and operating costs in the new offices. No more than the sum of two hundred twenty-five thousand dollars ($225,000) may be used for positions in the Office of Indigent Defense Services directly related to facilitating the establishment of these offices.

The Office of Indigent Defense Services shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division no later than October 1, 2007, on the location and establishment of the new public defender offices.

SECTION 14.4.(c) In addition to the new public defender offices established pursuant to subsection (b) of this section, the Office of Indigent Defense Services shall use funds from the Indigent Persons Attorney Fee Fund as follows:

(1) Up to the sum of one million three hundred thirty-five thousand five hundred forty-three dollars ($1,335,543) for the 2007-2008 fiscal year and up to the sum of one million two hundred sixty-four thousand six hundred seventy-nine dollars ($1,264,679) for the 2008-2009 fiscal year to establish Public Defender District 5 as provided for in subsection (d) of this section.

(2) Up to the sum of seven hundred eighty-eight thousand two hundred sixty-four dollars ($788,264) for the 2007-2008 fiscal year and up to the sum of seven hundred forty-two thousand four hundred seventy-seven dollars ($742,477) for the 2008-2009 fiscal year to establish Public Defender District 29B as provided for in subsection (d) of this section.

SECTION 14.4.(d) G.S. 7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
5	New Hanover
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe
29B	Henderson, Polk, Transylvania

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 14.5. The Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year;

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices; and

(5) The changes in operations implemented in response to the following findings and recommendations contained in the March 2007 State Audit Report:

a. Attorney fee payment process lacks adequate controls. Measures should be implemented to ensure that attorneys are paid the correct amount and to minimize the incidence of overpayment resulting from accident, fraud, or other cause.

b. Attorney fee payment process is inefficient and labor-intensive.

c. The Office should automate the attorney fee payment process and require attorneys to register for electronic fund transfer.

INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 14.6. Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars ($50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

REPORT ON BUSINESS COURTS

SECTION 14.7. The Administrative Office of the Courts shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the activities of each North

Carolina Business Court site, including the number of new, closed, and pending cases; average age of pending cases, and annual expenditures for the prior fiscal year.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 14.8. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2007, for the purchase or repair of office or information technology equipment during the 2007-2008 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

DISPUTE RESOLUTION FEES

SECTION 14.9. Notwithstanding the provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute Resolution Commission are non-reverting and are only to be used at the direction of the Commission.

REIMBURSEMENT FOR USE OF PERSONAL VEHICLES

SECTION 14.10. Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial Department, during the 2007-2009 fiscal biennium, may elect to establish a per-mile reimbursement rate for transportation by privately owned vehicles at a rate less than the business standard mileage rate set by the Internal Revenue Service.

DRUG TREATMENT FUNDS NEED NOT BE GRANTED

SECTION 14.12. Notwithstanding the provisions of G.S. 7A-794 and G.S. 7A-798, funds appropriated to the Judicial Department for the 2007-2009 fiscal biennium for drug treatment courts need not be granted but may be budgeted to support existing and new drug treatment courts in a manner similar to other specialty courts operating within the Judicial Department.

ADDITIONAL DISTRICT COURT JUDGES

SECTION 14.13.(a) G.S. 7A-133(a) reads as rewritten:

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

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington

3A	5	Pitt
3B	6	Craven
		Pamlico
		Carteret
4	8	Sampson
		Duplin
		Jones
		Onslow
5	8	New Hanover
		Pender
6A	3	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	2	Warren
		(part of Vance
		see subsection (b))
10	~~16~~17	Wake
11	~~9~~10	Harnett
		Johnston
		Lee
12	~~9~~10	Cumberland
13	6	Bladen
		Brunswick
		Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes
		Surry
18	~~13~~14	Guilford
19A	4	Cabarrus

19B	7	Montgomery Moore Randolph
19C	5	Rowan
20A	4	Stanly Anson Richmond
20B	1	(part of Union see subsection (b))
20C	2	(part of Union see subsection (b))
21	~~9~~10	Forsyth
22	9	Alexander Davidson Davie Iredell
23	4	Alleghany Ashe Wilkes Yadkin
24	4	Avery Madison Mitchell Watauga Yancey
25	9	Burke Caldwell Catawba
26	~~18~~19	Mecklenburg
27A	7	Gaston
27B	5	Cleveland Lincoln
28	7	Buncombe
29A	3	McDowell Rutherford
29B	4	Henderson Polk Transylvania
30	6	Cherokee Clay Graham Haywood Jackson Macon Swain."

SECTION 14.13.(b) The Governor shall appoint the additional district court judges authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2008 general election for four-year terms commencing January 1, 2009.

SECTION 14.13.(c) As to Districts 11, 12, and 18, subsection (a) of this section becomes effective January 1, 2008, or 15 days after preclearance under section 5 of the Voting Rights Act of 1965, whichever is later. All other portions of subsection (a) and subsection (b) of this section become effective January 1, 2008.

SECTION 14.13.(d) G.S. 7A-133(a), as amended by subsection (a) of this section and by subsection (e) of Section 14.25 of this act, reads as rewritten:

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

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

		(part of Vance see subsection (b))
10	~~17~~18	Wake
11	10	Harnett Johnston Lee
12	10	Cumberland
13	6	Bladen Brunswick Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange Chatham
16A	3	Scotland Hoke
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes Surry
18	14	Guilford
19A	4	Cabarrus
19B	7	Montgomery Moore Randolph
19C	5	Rowan
20A	4	Stanly Anson Richmond
20B	1	(part of Union see subsection (b))
20C	2	(part of Union see subsection (b))
21	10	Forsyth
22A	5	Alexander Iredell
22B	6	Davidson Davie
23	4	Alleghany Ashe Wilkes Yadkin
24	4	Avery Madison Mitchell Watauga Yancey
25	9	Burke Caldwell

		Catawba
26	~~19~~20	Mecklenburg
27A	7	Gaston
27B	5	Cleveland
		Lincoln
28	7	Buncombe
29A	3	McDowell
		Rutherford
29B	4	Henderson
		Polk
		Transylvania
30	6	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

SECTION 14.13.(e) The Governor shall appoint the additional district court judges authorized by subsection (d) of this section. Those judges' successors shall be elected in the 2010 general election for four-year terms commencing January 1, 2011.

SECTION 14.13.(f) Subsections (d) and (e) of this section become effective January 15, 2009.

ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

SECTION 14.14.(a) G.S. 7A-60 is amended by adding a new subsection to read:

"(a2) Upon the convening of each regular session of the General Assembly and its reconvening in the even-numbered year, the Administrative Office of the Courts shall report its recommendations regarding the allocation of assistant district attorneys for the upcoming fiscal biennium and fiscal year to the General Assembly, including any request for additional assistant district attorneys. The report shall include the number of assistant district attorneys that the Administrative Office of the Courts recommends to be allocated to each prosecutorial district and the caseload and criteria on which each recommended allocation is based. Any reports required under this subsection shall be made to the Joint Legislative Commission of Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public, and the Fiscal Research Division."

SECTION 14.14.(b) Notwithstanding G.S. 7A-60(a2) as enacted by subsection (a) of this section, for the 2007-2008 fiscal year, the Administrative Office of the Courts shall allocate the 30 additional assistant district attorneys authorized by this act based upon caseload and criteria developed by the Administrative Office of the Courts and shall report by October 1, 2007, to the Joint Legislative Commission of Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division regarding the allocation of assistant district attorneys for that year. The report shall include the number of assistant district attorneys allocated to each prosecutorial district and the caseload and criteria on which each allocation was based. The Administrative Office of the Courts shall transmit a copy of the order allocating the positions to the Revisor of

Statutes. Upon receipt of such an order, the Revisor of Statutes shall revise the chart in G.S. 7A-60(a1) so that it reflects the changes made by the order.

STUDY AVAILABILITY OF PROSECUTORIAL RESOURCES TO DISTRICT ATTORNEYS AND THE MANAGEMENT AND USE OF THOSE RESOURCES BY DISTRICT ATTORNEYS

SECTION 14.15.(a) The Legislative Research Commission may contract for an independent study that assesses the availability of prosecutorial resources to the State's district attorneys and that assesses the use and management of those prosecutorial resources by the district attorneys, their staffs, and the Conference of District Attorneys. The study shall address all of the following:

(1) Current prosecutorial resources. – Resources to be considered include those available to district attorneys and their legal, administrative, support, and investigative staff, and the Conference of District Attorneys. The study shall also consider supplemental assistance and resources provided to district attorneys and their staffs through the State or other funding sources.

(2) Services provided by the State's district attorneys and Conference of District Attorneys and the recipients of those services.

(3) Funding of prosecutorial services, adequacy of supplies, equipment, and working space, and allocation of prosecutorial resources. – Issues to be considered shall include the following:

a. Funding, supplies, equipment, and space required to support prosecutorial services at an appropriate level.

b. Distribution of prosecutorial resources and how that distribution is determined.

c. Equitable allocation of prosecutorial resources among the geographical areas of the State and between urban and rural areas.

d. The proportion of prosecution personnel and budget that is devoted to criminal prosecution, as opposed to other functions or mandates.

e. Whether monies from the General Fund should be used to support positions for the Conference of District Attorneys, or positions for any other conferences that provide prosecutorial resources.

(4) The current role of the Conference of District Attorneys and district attorneys in assessing the needs of the public with regard to prosecutorial services and providing assistance in meeting those needs. The study shall also assess the current role, responsibilities, and interaction of the Conference of District Attorneys with regard to the General Assembly and the executive branch and whether those roles and responsibilities should be modified.

(5) Automation. – The study shall document which prosecutorial services are currently automated and the ability of those systems to interact with each other. The study shall also address areas in which automation could improve or increase the efficiency of prosecutorial services.

(6) Cost management practices of district attorneys and their staffs. – Practices to be reviewed and considered shall include how well district attorneys' offices manage costs associated with a prosecution such as forensics costs, expert witnesses, and witness travel expenses.

(7) Caseload management. – In the assessment of caseload management, the study shall focus particularly on whether current management techniques used by district attorneys recognize the critical need to prosecute serious crimes in a timely manner and to keep jail populations at a low level; the techniques, if any that have been adopted to achieve those objectives; and the effectiveness of those management techniques. Other issues that shall also be considered include the following:

a. Mechanisms used by the district attorney to manage the incoming caseloads generally.
b. The screening process, if any, for assessing cases prior to assignment.
c. Initiatives implemented by a district attorney, if any, to expedite the resolution of certain categories of cases.
d. The type of statistics, if any, the district attorney's office keeps and for what purposes.
e. Performance indicators, if any, used by district attorneys. If performance indicators are not being used, then the study shall assess whether implementation of performance indicators would be helpful in achieving management goals and the types of indicators that may assist with caseload management. If there are performance indicators, then the study shall identify the indicators, how they are developed, the effectiveness of the indicators, and whether additional performance indicators or modification of existing performance indicators would be helpful in achieving management objectives.

(8) How the current management and use of prosecutorial resources affect the following:

a. Access to justice.
b. Day-to-day functioning of the prosecution service.
c. Case management, including the development of case screening mechanisms and protocols for diversion.
d. Timely resolution of caseloads.
e. Reduction of any backlogs that exist and the impact that current management and use of prosecutorial resources has on the jail population.
f. The capacity to handle specialized or complex crimes.
g. The effectiveness of district attorneys and their staffs in responding to domestic violence and other crimes of violence.
h. Services and support provided to victims.
i. Accountability to the public.

(9) Any other issue deemed relevant by the Legislative Research Commission.

SECTION 14.15.(b) The findings and recommendations of the study shall be reported to the Chairs of the House of Representatives and Senate Appropriations

Committee, Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division by March 15, 2008.

STATE FUNDS NOT TO BE USED FOR TELEPHONE SERVICE

SECTION 14.16.(a) G.S. 7A-302 reads as rewritten:

"§ **7A-302. Counties and municipalities responsible for physical facilities.**

In each county in which a district court has been established, courtrooms, office space for juvenile court counselors and support staff as assigned by the Department of Juvenile Justice and Delinquency Prevention, and related judicial facilities (including ~~furniture~~ furniture, properly functioning telephones that meet the specifications for Administrative Office of the Court telephones, and the equipment and infrastructure necessary to support those telephones), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the Administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the "facilities fee," collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities."

SECTION 14.16.(b) This section becomes effective July 1, 2008.

OFFICE OF INDIGENT DEFENSE SERVICES/ELECTRONIC FEE SUBMISSION

SECTION 14.17.(a) The Office of Indigent Defense Services, in consultation with the Administrative Office of the Courts, shall study the potential for a statewide system of electronic fee submission and develop a proposal for statewide implementation of such a system. A report on this proposal shall be included as part of the report required under Section 14.5 of this act.

SECTION 14.17.(b) The Administrative Office of the Courts may conduct a pilot project in multiple counties to evaluate a system for the electronic filing, case processing, and case management of civil cases and special proceedings filed in the General Court of Justice. The Administrative Office of the Courts may designate the case types that will be subject to mandatory electronic filing, case processing, and case management during the pilot project. No county may be selected without the concurrence of the senior resident superior court judge, the chief district court judge, and the clerk of superior court. Notwithstanding the requirements of Chapters 1A and Chapter 7A of the General Statutes, the North Carolina Supreme Court and the Administrative Office of the Courts shall establish rules, costs, procedures, and specifications for electronic filing, case processing, and case management under the pilot. However, Rule 4 of the Rules of Civil Procedure shall govern service of process of pleadings that are currently required to be served pursuant to Rule 4 of the Rules of Civil Procedure. The terms of any contract entered into for the purpose of implementing the provisions of this subsection shall provide that the State retains the ownership of all electronic data received by the vendor as part of the pilot project.

SECTION 14.17.(c) G.S. 7A-49.5(c) reads as rewritten:

"(c) The Administrative Office of the Courts may contract with a vendor to provide electronic filing in the ~~courts, provided that the costs for the hardware and software are not paid using State funds.~~ courts."

SECTION 14.17.(d) Subsection (b) of this section expires June 30, 2009.

REPORT ON COURT SYSTEM PERFORMANCE MEASURES

SECTION 14.18. The Administrative Office of the Courts shall develop and implement a system to measure the impact of the funding provided in this act on the operation of the courts. The system shall include uniform performance measures and standards for caseload management and resource allocation, including funding, personnel, technology, and equipment at district and county levels. The Administrative Office of the Courts shall submit an interim status report on the development and implementation of the performance measurement system to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House Appropriations Committees no later than December 31, 2007, and shall submit a final report no later than May 1, 2008.

THE OFFICE OF INDIGENT DEFENSE SERVICES MAY COMPENSATE ATTORNEYS FOR CERTAIN FILINGS

SECTION 14.19.(a) G.S. 7A-451(b) reads as rewritten:

"(b) In each of the actions and proceedings enumerated in subsection (a) of this section, entitlement to the services of counsel begins as soon as feasible after the indigent is taken into custody or service is made upon him of the charge, petition, notice or other initiating process. Entitlement continues through any critical stage of the action or proceeding, including, if applicable:

(1) An in-custody interrogation;

(2) A pretrial identification procedure which occurs after formal charges have been preferred and at which the presence of the indigent is required;

(3) A hearing for the reduction of bail, or to fix bail if bail has been earlier denied;

(4) A probable cause hearing;

(5) Trial and sentencing; ~~and~~

(6) Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), 7A-30(2), and Subchapter XIV of Chapter 15A of the General ~~Statutes.~~ Statutes;

(7) In a capital case in which a defendant is under a sentence of death, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by the Supreme Court of North Carolina pursuant to the certiorari jurisdiction of the United States Supreme Court; and

(8) In a noncapital case, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by a court of the North Carolina Appellate Division pursuant to the certiorari jurisdiction of the United States Supreme Court, when the judgment or decree:

a. Decides an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court, a federal Court of Appeals, or the court of last resort of another state;

b. Decides an important question of federal law that has not been, but should be, settled by the United States Supreme Court; or

c. Decides a question of federal law in the indigent's favor and the judgment or decree is challenged by opposing counsel through an attempt to invoke the certiorari jurisdiction of the United States Supreme Court."

SECTION 14.19.(b) G.S. 7A-498.8(b) reads as rewritten:

"(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including:

(1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense Services may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, assign appeals, or authorize the appellate defender to assign appeals, to a local public defender's office or to private assigned counsel.

(2) Maintaining a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.

(3) Providing continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.

(4) Providing consulting services to attorneys representing defendants in capital cases.

(5) Recruiting qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.

(6) In the appellate defender's discretion, serving as counsel of record for indigent defendants in capital cases in State court.

(6a) In the appellate defender's discretion, serving as counsel of record for indigent defendants in the United States Supreme Court pursuant to a petition for writ of certiorari of the decision on direct appeal by a court of the North Carolina Appellate Division.

(7) Undertaking other direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded."

AUTHORIZE MILEAGE REIMBURSEMENT FOR APPELLATE JUDGES WHO RESIDE FIFTY MILES OR MORE FROM RALEIGH

SECTION 14.21.(a) G.S. 7A-10 is amended by adding a new subsection to read:

"(b1) In addition to the reimbursement for travel and subsistence expenses authorized by subsection (b) of this section, and notwithstanding G.S. 138-6, each justice whose permanent residence is at least 50 miles from the City of Raleigh shall also be reimbursed for the mileage the justice travels each week to the City of Raleigh from the justice's home for business of the court. The reimbursement authorized by this subsection shall be calculated for each justice by multiplying the actual round-trip mileage from that justice's home to the City of Raleigh by a rate-per-mile established by the Director of the Administrative Office of the Courts, but not to exceed the business standard mileage rate set by the Internal Revenue Service."

SECTION 14.21.(b) G.S. 7A-18 is amended by adding a new subsection to read:

"(a1) In addition to the reimbursement for travel and subsistence expenses authorized by subsection (a) of this section, and notwithstanding G.S. 138-6, each judge whose permanent residence is at least 50 miles from the City of Raleigh shall also be reimbursed for the mileage the judge travels each week to the City of Raleigh from the judge's home for business of the court. The reimbursement authorized by this subsection shall be calculated for each judge by multiplying the actual round-trip mileage from that judge's home to the City of Raleigh by a rate-per-mile established by the Director of the Administrative Office of the Courts, but not to exceed the business standard mileage rate set by the Internal Revenue Service."

EXPAND COURT-FUNDED INTERPRETER AUTHORITY

SECTION 14.23. G.S. 7A-314(f) reads as rewritten:

"(f) In any case in which the Judicial Department is bearing the costs of representation for a party and that party or a witness for that party does not speak or understand the English language, and the court appoints a foreign language interpreter to assist that party or witness, the reasonable fee for the interpreter's services is payable from funds appropriated to the Administrative Office of the Courts. In order to facilitate the disposition of criminal or Chapter 50B cases, the court may authorize the use of a court interpreter, paid from funds appropriated to the Administrative Office of the Courts, in cases in which an interpreter is necessary to assist the court in the efficient transaction of business. The appointment and payment shall be made in accordance with G.S. 7A-343(9c)."

ADD TWO SPECIAL SUPERIOR COURT JUDGES

SECTION 14.24. G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a7) Effective January 1, 2008, the Governor may appoint two special superior court judges to serve terms expiring five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

DIVIDE SUPERIOR COURT, DISTRICT COURT, AND PROSECUTORIAL DISTRICTS 22 INTO DISTRICTS 22A AND 22B

SECTION 14.25.(a) Effective January 1, 2009, G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan,	2

		Currituck, Dare, Gates, Pasquotank, Perquimans	
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	3
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake, see subsection (b))	2
Third	10B	(part of Wake, see subsection (b))	2
Third	10C	(part of Wake, see subsection (b))	1
Third	10D	(part of Wake, see subsection (b))	1
Fourth	11A	Harnett, Lee	1
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland, see subsection (b))	1

Fourth	12B	(part of Cumberland, see subsection (b))	1
Fourth	12C	(part of Cumberland, see subsection (b))	2
Fourth	13	Bladen, Brunswick, Columbus	2
Third	14A	(part of Durham, see subsection (b))	1
Third	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Third	15B	Orange, Chatham	2
Fourth	16A	Scotland, Hoke	1
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2
Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford, see subsection (b))	1
Fifth	18B	(part of Guilford, see subsection (b))	1
Fifth	18C	(part of Guilford, see subsection (b))	1
Fifth	18D	(part of Guilford, see subsection (b))	1
Fifth	18E	(part of Guilford, see subsection (b))	1
Sixth	19A	Cabarrus	1
Fifth	19B	Montgomery, Randolph	1
Sixth	19C	Rowan	1
Fifth	19D	Moore	1
Sixth	20A	Anson, Richmond, Stanley	2
Sixth	20B	Union	1
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth see subsection (b))	1
Sixth	~~22~~ 22A	Alexander, ~~Davidson, Davie,~~ Iredell	~~3~~ 2
Sixth	22B	Davidson, Davie	2
Fifth	23	Alleghany, Ashe Wilkes, Yadkin	1
Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	2

Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	3
Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29A	McDowell Rutherford	1
Eighth	29B	Henderson, Polk, Transylvania	1
Eighth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."

SECTION 14.25.(b) The two superior court judgeships established for District 22A by subsection (a) of this section shall be filled by the two judges currently serving District 22 who reside in Alexander and Iredell Counties. The term of one of those judges expires December 31, 2008, and a successor shall be elected in the 2008 election. The term of the other judges expires December 31, 2010, and a successor shall be elected in the 2010 election.

SECTION 14.25.(c) One of the superior court judgeships established for District 22B by subsection (a) of this section shall be filled by the judge currently serving District 22 who resides in Davidson County. That judge's term expires December 31, 2014, and a successor shall be elected in the 2014 election.

SECTION 14.25.(d) The additional judgeship established for District 22B by subsection (a) of this section shall be filled by election in the 2008 election for an eight-year term expiring December 31, 2016. That judge's successor shall be elected in the 2016 election.

SECTION 14.25.(e) Effective January 1, 2009, G.S. 7A-133(a), as amended by Section 14.13 of this act, reads as rewritten:

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

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde

		Washington
3A	5	Pitt
3B	6	Craven
		Pamlico
		Carteret
4	8	Sampson
		Duplin
		Jones
		Onslow
5	8	New Hanover
		Pender
6A	3	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	2	Warren
		(part of Vance
		see subsection (b))
10	17	Wake
11	10	Harnett
		Johnston
		Lee
12	9	Cumberland
13	6	Bladen
		Brunswick
		Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes
		Surry
18	14	Guilford

19A	4	Cabarrus
19B	7	Montgomery
		Moore
		Randolph
19C	5	Rowan
20A	4	Stanly
		Anson
		Richmond
20B	1	(part of Union see subsection (b))
20C	2	(part of Union see subsection (b))
21	10	Forsyth
~~22~~ 22A	~~9~~ 5	Alexander
		~~Davidson~~
		~~Davie~~
		Iredell
22B	6	Davidson
		Davie
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	9	Burke
		Caldwell
		Catawba
26	19	Mecklenburg
27A	7	Gaston
27B	5	Cleveland
		Lincoln
28	7	Buncombe
29A	3	McDowell
		Rutherford
29B	4	Henderson
		Polk
		Transylvania
30	6	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

SECTION 14.25.(f) G.S. 7A-133 is amended by adding two new subsections to read:

"(b3) The qualified voters of District Court District 22A shall elect all five judges established for the District in subsection (a) of this section, but only persons who reside in Alexander County may be candidates for two of the judgeships, and only persons who reside in Iredell County may be candidates for three of the judgeships.

(b4) The qualified voters of District Court District 22B shall elect all six judges established for the District in subsection (a) of this section, but only persons who reside in Davie County may be candidates for two of the judgeships, and only persons who reside in Davidson County may be candidates for four of the judgeships."

SECTION 14.25.(g) Three of the five judgeships established for District 22A by subsection (e) of this section shall be filled by the judges currently serving District 22 who reside in Alexander and Iredell Counties. The term of one of the judges residing in Iredell County expires December 31, 2010, and a successor shall be elected in the 2010 election as provided in G.S. 7A-133(b3). The terms of the other two judges expire December 31, 2008, and successors shall be elected in the 2008 election as provided in G.S. 7A-133(b3).

SECTION 14.25.(h) Two of the judgeships established for District 22A by subsection (e) of this section shall be filled by election in the 2008 election for four-year terms expiring December 31, 2012. Those judges' successors shall be elected in the 2012 election.

SECTION 14.25.(i) The six judgeships established for District 22B by subsection (e) of this section shall be filled by the judges currently serving District 22 who reside in Davie and Davidson Counties. The terms of each of those judges expire December 31, 2010, and successors shall be elected in the 2010 election as provided in G.S. 7A-133(b4).

SECTION 14.25.(j) Effective January 1, 2009, G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	7
3A	Pitt	11
3B	Carteret, Craven, Pamlico	11
4	Duplin, Jones, Onslow, Sampson	16
5	New Hanover, Pender	16
6A	Halifax	5
6B	Bertie, Hertford, Northampton	5
7	Edgecombe, Nash, Wilson	18
8	Greene, Lenoir, Wayne	13

9	Franklin, Granville, Vance, Warren	12
9A	Person, Caswell	5
10	Wake	38
11	Harnett, Johnston, Lee	16
12	Cumberland	21
13	Bladen, Brunswick, Columbus	12
14	Durham	15
15A	Alamance	10
15B	Orange, Chatham	9
16A	Scotland, Hoke	6
16B	Robeson	13
17A	Rockingham	6
17B	Stokes, Surry	7
18	Guilford	30
19A	Cabarrus	8
19B	Montgomery, Randolph	8
19C	Rowan	7
19D	Moore	4
20A	Anson, Richmond, Stanly	10
20B	Union	8
21	Forsyth	20
~~22~~ 22A	Alexander,~~ Davidson, Davie,~~ Iredell	~~20~~ 11
22B	Davidson, Davie	11
23	Alleghany, Ashe, Wilkes, Yadkin	7
24	Avery, Madison, Mitchell, Watauga, Yancey	6
25	Burke, Caldwell, Catawba	18
26	Mecklenburg	49
27A	Gaston	14
27B	Cleveland, Lincoln	10
28	Buncombe	13
29A	McDowell, Rutherford	6
29B	Henderson, Polk, Transylvania	7
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	11

SECTION 14.25.(k) The district attorney position established for District 22A by subsection (j) of this section shall be filled by election in the 2008 election for a four-year term expiring December 31, 2012. That district attorney's successor shall be elected in the 2012 election.

SECTION 14.25.(l) The district attorney position established for District 22B by subsection (j) of this section shall be filled by the district attorney currently serving District 22 who resides in Davidson County. That district attorney's term expires December 31, 2010, and a successor shall be elected in the 2010 election.

SECTION 14.25.(m) The 10 assistant district attorney positions established for District 22A by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving Alexander and Iredell Counties in District 22. The 10 assistant district attorney positions established for District 22B by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving Alexander and Iredell Counties in District 22.

SECTION 14.25.(n) G.S. 7A-69 reads as rewritten:

"§ **7A-69. Investigatorial assistants.**

The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B, 16A, 18, 19B, 20A, 20B, 21, ~~22,~~ 22A, 22B, 24, 25, 26, 27A, 27B, 28, 29A, 29B, and 30 is entitled to one investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other Duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

SECTION 14.25.(o) This section becomes effective January 1, 2009, but applies to the 2008 election as provided in the terms of this section.

PART XV. DEPARTMENT OF JUSTICE

STATEWIDE AUTOMATED FINGERPRINT SYSTEM REPLACEMENT (SAFIS) REPORTS

SECTION 15.1. The Department of Justice shall provide two status reports on the implementation of Phase II of SAFIS to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations. The first report shall be provided no later than February 1, 2008, and the second report shall be provided no later than May 1, 2008. Each report shall include all of the following:

(1) A description of the system.
(2) A summary of work done with prior year appropriations.
(3) A list of all sites that are scheduled to receive new equipment.
(4) A list of sites that have already received new equipment.
(5) A time line for completion of the project.
(6) Expenditures for the year to date.

PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

SECTION 15.2. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 15.3.(a) Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2007-2009 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those

departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 15.3.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 15.3.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

SECTION 15.4. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

SECTION 15.5. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS DISBURSED

SECTION 15.6. The North Carolina Legal Education Assistance Foundation shall report by March 1 of each year to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds, the purpose of the expenditures, the number of attorneys receiving funds, the average award amount, the average student loan amount, the number of attorneys on the waiting list, and the average number of years for which attorneys receive loan assistance.

HIRING OF SWORN STAFF POSITIONS FOR THE STATE BUREAU OF INVESTIGATION

SECTION 15.7. The Department of Justice may hire sworn personnel to fill vacant positions in the State Bureau of Investigation only in the following circumstances: (i) the position's regular responsibilities involve warrant executions, property searches, criminal investigations, or arrest activities that are consistent in frequency with the responsibilities of other sworn agents; (ii) the position is a promotion for a sworn agent who was employed at the State Bureau of Investigation prior to July 1, 2007; (iii) the position is a forensic drug chemist position which requires "responding

to clandestine methamphetamine laboratories" as a primary duty; (iv) the position is a forensic impressions analyst position which requires "responding to clandestine methamphetamine laboratories" as a primary duty; or (v) the position primarily involves supervising sworn personnel.

PART XVI. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM

SECTION 16.1. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year of the biennium on the operations and effectiveness of the National Guard Tarheel Challenge Program. In particular, the Department shall evaluate and report on the Program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent and on the Program's role in improving individual skills and employment potential for participants. The report shall also include all of the following:

(1) The source of referrals for individuals participating in the Program.
(2) The summary of types of actions or offenses committed by the participants of the Program.
(3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants.
(4) The number of individuals who successfully complete the Program.
(5) The number of participants who commit offenses after completing the Program.

NEW ALE NON-SWORN JOB CLASSIFICATION

SECTION 16.2.(a) As recommended by the Fiscal Research Division of the General Assembly in the February 2007 Justification Review, the State Personnel Commission shall develop for review a new non-sworn position classification for the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety that would supplement the agents that are employed by the Division.

SECTION 16.2.(b) Prior to the action taken pursuant to subsection (a) of this section, the Office of State Personnel shall review all of the following:

(1) The Justification Review report.
(2) Current position descriptions and job classifications.
(3) Tasks currently performed by ALE field agents in order to determine tasks that could be performed by non-sworn or noncertified personnel.
(4) Information on other states that use non-sworn staff for inspection, compliance, and education efforts currently performed by North Carolina ALE agents.

SECTION 16.2.(c) The Office of State Personnel shall report the results of its review in writing to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the State Personnel Commission by February 1, 2008. The Office of State Personnel report shall include (i) a detailed description of the new ALE civilian position, including the job classification, a description of all of the duties assigned to the position, and the salary grade for the position, (ii) the estimated

number of positions that should be established, and (iii) a time line for further review of the job classification by the State Personnel Commission.

ALTERNATIVE FUNDING SOURCE STUDY FOR LAW ENFORCEMENT SUPPORT SERVICES AND THE GEOSPATIAL AND TECHNOLOGY MANAGEMENT PROGRAM

SECTION 16.3.(a) The Department of Crime Control and Public Safety shall study alternative funding sources for the operating costs of the Law Enforcement Support Services Program. By March 1, 2008, the Department shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety. This report shall include information about possible federal grant sources and options for receipt-based funding from State and local agencies.

SECTION 16.3.(b) The Department of Crime Control and Public Safety shall study alternative funding sources for the Geospatial and Technology Management Program. By March 1, 2008, the Department shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety. This report shall include information about possible federal grant sources and receipt-based funding options from federal, State, and local agencies as well as private industry.

USE OF GANG PREVENTION FUNDS

SECTION 16.5.(a) Of the funds appropriated in this act to the Department of Crime Control and Public Safety, Governor's Crime Commission, the sum of four million seven hundred sixty thousand one hundred ninety-five dollars ($4,760,195) for the 2007-2008 fiscal year shall be used to provide grants for street gang violence prevention, intervention, and suppression programs.

SECTION 16.5.(b) The Governor's Crime Commission shall develop the criteria for eligibility for these funds. The criteria shall include a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and presentation of a written plan for the services to be provided by the funds. Funds shall be available to public and private entities or agencies for juvenile or adult programs that meet the criteria established by the Governor's Crime Commission.

SECTION 16.5.(c) The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 2008, on this program. The report shall include all of the following:

(1) The grant award process.
(2) A description of each grant awarded.
(3) The performance criteria for evaluating grant programs.
(4) A list of State grants awarded in the 2007 grant cycle.

REPORTS ON THE EXPANSION OF THE ALCOHOL LAW ENFORCEMENT DIVISION'S AUTOMATED SYSTEMS

SECTION 16.6. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations

Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by February 1 and May 1, 2008, on the status of the expansion of the Alcohol Law Enforcement Division's automated systems for administrative and field processes. Each report shall include all of the following:

(1) A description of the Division's automated systems.
(2) A list of prior and ongoing automation projects, including an assessment of the Division's long-term automation needs and the potential cost.
(3) A summary of work done with funds received.
(4) A time line for completion of new and ongoing projects.
(5) A list of expenditures to date.
(6) Program performance/efficiencies achieved with expanded automation, including an assessment of the progress made in improving the management information that will be collected and entered into the automated system. The assessment shall include information with respect to progress in the following areas: (i) recording of staff hours attributed to specific functional areas such as bingo, controlled substances, or video poker; (ii) recording of staff hours attributed to specific activities such as written inspections, compliance checks, and surveillance; and (iii) recording of violations reported to the Alcohol Beverage Control Commission, including further analysis of violations recorded from 2004-2006.

STUDY GANG ACTIVITY

SECTION 16.8.(a) The Governor's Crime Commission shall study gang activity in North Carolina. In its study, the Governor's Crime Commission shall do all of the following:

(1) Assess gang activity in communities known to have gangs, including any connections between gang activity and organized crime.
(2) Consult with the Department of Correction to assess gang activity in the State's prisons.
(3) Consult with the Department of Public Instruction, Department of Justice, and the Department of Correction on any gang prevention initiatives they have in place or administered in the past.
(4) Summarize significant gang prevention, intervention, and suppression programs that have been administered by local law enforcement, State agencies, local governments, and community-based organizations and evaluate those programs for effectiveness.
(5) Review accepted best practices in gang prevention and evaluate whether or not increasing penalties will mitigate gang activity.
(6) Project the growth of gang activity over the next five years and identify the locations where that growth is expected to occur.
(7) Provide recommendations on ways of using State and local resources to improve the effectiveness of future gang prevention initiatives.

SECTION 16.8.(b) The Governor's Crime Commission shall report on the study's findings and recommendations by March 15, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs

of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

PART XVII. DEPARTMENT OF CORRECTION

MUTUAL AGREEMENT PAROLE PROGRAM

SECTION 17.1. The Department of Correction and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the number of inmates enrolled in the program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

INMATE ROAD SQUADS AND LITTER CREWS

SECTION 17.2. Of the funds appropriated to the Department of Transportation in this act, the sum of eleven million three hundred thousand dollars ($11,300,000) per year shall be transferred by the Department to the Department of Correction during the 2007-2008 and 2008-2009 fiscal years for the cost of operating medium custody inmate road squads, as authorized by G.S. 148-26.5, and minimum custody inmate litter crews. This transfer shall be made quarterly in the amount of two million eight hundred twenty-five thousand dollars ($2,825,000). The Department of Transportation may use funds appropriated in this act to pay an additional amount exceeding the eleven million three hundred thousand dollars ($11,300,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

The Office of State Budget and Management shall conduct a study, in consultation with the Department of Correction and the Department of Transportation, to determine the actual cost and cost/benefit of operating medium custody road squads and minimum custody litter crews. The Office of State Budget and Management shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Joint Legislative Transportation Oversight Committee by March 1, 2008. The study shall include a recommendation on whether or not the amount transferred from the Department of Transportation to the Department of Correction for this work is adequate.

ALCOHOL AND CHEMICAL DEPENDENCY PROGRAM REPORT

SECTION 17.3.(a) G.S. 143B-262.3 reads as rewritten:

"§ **143B-262.3. Reports to the General Assembly.**

(a) The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees in Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

(1) Details of any new initiatives and expansions or reduction of programs;

(2) Details on any treatment efforts conducted in conjunction with other departments;

(3) Utilization of the DART/DWI ~~program, including its aftercare~~ program;

~~(4) Progress in the development on an offender and inmate tracking and program evaluation system; and~~

~~(5) A report on the number of current inmates with substance abuse problems, the numbers currently receiving treatment, and the numbers who have completed treatment. As an offender and inmate tracking system becomes operational, this report shall also include information on the recidivism of inmates who have previously completed substance abuse treatment and been released from prison.~~

(6) Statistical information on the number of current inmates with substance abuse problems that require treatment, the number of treatment slots, the number who have completed treatment, and a comparison of available treatment slots to actual utilization rates. The report shall include this information for each DOC funded program; and

(7) Evaluation of each substance abuse treatment program funded by the Department of Correction. Evaluation measures shall include reduction in alcohol and drug dependency, improvements in disciplinary and infraction rates, recidivism (defined as return-to-prison rates), and other measures of the programs' success.

~~(b) The Department shall also report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals).~~"

SECTION 17.3.(b) During the 2007-2009 fiscal biennium, the Department of Correction evaluation effort shall focus mainly on evaluation of the long-term residential programs operated by the Department of Correction through private contract and those operated directly by the Department of Correction. The evaluation component of the March 1, 2008, annual report shall be primarily a status report and provide only preliminary information on the evaluation of the residential program. The final evaluation report shall be included in the March 1, 2009, annual report.

INMATE CONSTRUCTION PROGRAM

SECTION 17.4. Funding authorized in this act is intended to increase participation in the Inmate Construction Program in order to improve inmate job skills and reduce recidivism. By April 1, 2008, the Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the House and Senate Appropriations Subcommittees on Justice and Public Safety on the Inmate Construction Program. The report shall summarize the 2007-2008 Inmate Construction Program projects, including a description of each project, the number of inmate workers, and the estimated total cost of the project compared to the cost if the project was conducted without inmate workers. The report

shall also estimate the number of inmate workers that will be used in the program during the 2008-2009 fiscal year.

FEDERAL GRANT REPORTING

SECTION 17.5. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 17.6. Notwithstanding G.S. 143C-6-9, the Department of Correction may use funds available to the Department for the 2007-2009 biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

USE OF CLOSED PRISON FACILITIES

SECTION 17.7. In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another,

where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

LIMIT USE OF OPERATIONAL FUNDS

SECTION 17.8. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except that the Department may establish critical positions prior to 120 days of completion representing no more than twenty percent (20%) of the total estimated number of positions.

ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT

SECTION 17.9. The Department of Correction may continue to contract with Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2007-2009 biennium. Energy Committed To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction.

INMATE MEDICAL COSTS

SECTION 17.10. Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use funds available during the 2007-2009 biennium for the inmate medical program if expenditures are projected to exceed the Department's inmate medical continuation budget. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

PAROLE ELIGIBILITY REPORT

SECTION 17.11.(a) The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Correction, analyze the amount of time each inmate who is eligible for parole on or before July 1, 2008, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the

person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 17.11.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

(1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.

(2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).

(3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 17.11.(c) The Commission shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2008. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

FEDERAL GRANT MATCHING FUNDS

SECTION 17.12. Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million two hundred thousand dollars ($1,200,000) during the 2007-2008 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

REPORTS ON NONPROFIT PROGRAMS

SECTION 17.13.(a) Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property to serve women released from prison with children in their custody. Harriet's House shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and

Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who successfully complete the Harriet's House program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.13.(b) Summit House shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who successfully complete the program while housed at Summit House, Inc., and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.13.(c) Women at Risk shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who have successfully completed the program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.13.(d) Our Children's Place shall report by February 1, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the status of the planning, design, and construction of Our Children's Place, the proposed program components and evaluation measures, and on the projected number of inmates and their children to be served. The report shall also provide financial data, including the expenditure of State funds and all funding sources and amounts.

REPORT ON ELECTRONIC MONITORING PROGRAM/USE OF GLOBAL POSITIONING SYSTEMS FOR SEX OFFENDERS

SECTION 17.14. The Department of Correction shall report by March 1 of each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

(1) The number of sex offenders enrolled on active and passive GPS monitoring.

(2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
(3) The number of violations.
(4) The number of absconders.
(5) The projected number of offenders to be enrolled by the end of the 2007-2008 fiscal year and the end of the 2008-2009 fiscal year.
(6) The total cost of the program, including a per-offender cost.

CRIMINAL JUSTICE PARTNERSHIP

SECTION 17.15.(a) Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

SECTION 17.15.(b) The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

SECTION 17.15.(c) The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year;
(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
(3) Any counties the Department anticipates will submit requests for new implementation grants;
(4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
(5) An analysis of offender participation data received, including data on each program's utilization and capacity;
(6) An analysis of comparable programs prepared by the Division of Research and Planning, Department of Correction, including a comparison of programs in each program type on selected outcome measures developed by the Division of Community Corrections in consultation with the Fiscal Research Division and the Division of Research and Planning, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards;
(7) A review of whether each sentenced offender program is meeting established program goals developed by the Division of Community Corrections in consultation with the Division of Research and Planning and the State Criminal Justice Partnership Advisory Board;
(8) The number of community offenders and intermediate offenders served by each county program;

(9) The amount of Criminal Justice Partnership funds spent on community offenders and intermediate offenders; and

(10) A short description of the services and programs provided by each partnership, including who the service providers are and the amount of funds each service provider receives.

SECTION 17.15.(d) The Research and Planning Division of the Department of Correction shall review national best practice programs for community corrections and recommend whether the types of programs currently being funded should continue to be funded, and whether alternative programs should be funded if a county wants to expand sanction options. The Division shall report on its review by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 17.16.(a) The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;

(2) An analysis of the optimal caseloads for these officer classifications;

(3) An assessment of the role of surveillance officers;

(4) The number and role of paraprofessionals in supervising low-risk caseloads;

(5) An update on the Department's implementation of the recommendations contained in the National Institute of Correction study conducted on the Division of Community Corrections in 2004;

(6) The selection of a risk assessment and the resulting distribution of offenders among risk levels; and

(7) Any position reallocations in the previous 12 months, and the reasons for and fiscal impact of those reallocations.

SECTION 17.16.(b) The Department of Correction shall conduct a study of probation/parole officer workload at least biannually. The study shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

SECTION 17.16.(c) The Department of Correction shall report the results of the study and recommendations for any adjustments to caseload goals to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by January 1, 2009.

COMMUNITY SERVICE WORK PROGRAM

SECTION 17.17. The Department of Correction shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and

Public Safety by February 1 of each year on the integration of the Community Service Work Program into the Division of Community Corrections, including the Department's ability to monitor the collection of offender payments from unsupervised offenders sentenced to community service. The Department shall also report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals).

PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SUPPORT OUR STUDENTS ADMINISTRATIVE COST LIMITS

SECTION 18.1. Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than five hundred thousand dollars ($500,000) for the 2007-2008 fiscal year and not more than five hundred thousand dollars ($500,000) for the 2008-2009 fiscal year may be used to administer the Support Our Students (S.O.S.) Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

JCPC GRANT REPORTING AND CERTIFICATION

SECTION 18.2.(a) On or before April 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

SECTION 18.2.(b) Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

SECTION 18.2.(c) G.S. 143B-519 reads as rewritten:

"§ **143B-519. Annual report.**

(a) On or before April 1 each year, beginning with the year 2001, the Department shall report to the General Assembly on the effectiveness and cost benefit of every program operated and contracted by the Department and a summary of the local

programs that receive State funding. The report shall include the most current institutional populations of juveniles being served by the Department, a comparison of the costs of the services, and a ranking of all programs that provide services to juveniles. The Department shall submit the report to the various State agencies providing services to juveniles.

(b) On or before April 1 each year, the Department shall report to the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Fiscal Research Division on the following:

(1) The effectiveness of programs that receive Juvenile Crime Prevention Council grant funds and that serve juveniles who have been adjudicated delinquent or who have been diverted for delinquent offenses. The standards used to evaluate these programs shall include methods for measuring success factors following intervention and shall include those factors that:

a. Reduce the use of alcohol or controlled substances.
b. Reduce subsequent complaints.
c. Reduce violations of terms of community supervision.
d. Reduce convictions for subsequent offenses.
e. Fulfill restitution to victims.
f. Increase parental accountability.

(2) The number of diverted and adjudicated juveniles served.

(3) The specific methods used by the Juvenile Crime Prevention Councils to determine services, programs, and intervention strategies most likely to change behaviors of juvenile offenders.

(4) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

(5) An assessment of the extent to which programs funded by Juvenile Crime Prevention Council grants:

a. Are compatible with research that shows prevention and early intervention strategies that are effective with juvenile offenders.
b. Are outcome-based in that the grantee describes what outcomes will be achieved or what outcomes have already been achieved.
c. Include an evaluation component.
d. Have a demonstrable impact on success factors.
e. Detect gang participation and divert individuals from gang participation."

SECTION 18.2.(d) The Department shall withhold the fourth quarter payment for local Juvenile Crime Prevention Council grants pending receipt of the annual effectiveness report required by subsection (c) of this section.

REPORTS ON CERTAIN PROGRAMS

SECTION 18.3.(a) Project Challenge North Carolina, Inc., shall report to the Department of Juvenile Justice and Delinquency Prevention and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on:

(1) The source of referrals for juveniles.

(2) The types of offenses committed by juveniles participating in the program.
(3) The amount of time those juveniles spend in the program.
(4) The number of juveniles who successfully complete the program.
(5) The number of juveniles who commit additional offenses after completing the program.
(6) The program's budget and expenditures, including all funding sources.

SECTION 18.3.(b) The Juvenile Assessment Center shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the effectiveness of the Center by April 1 each year. The report shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans. In addition, the report shall include information on the Center's budget and expenditures, including all funding sources.

ANNUAL EVALUATION OF COMMUNITY PROGRAMS

SECTION 18.4. The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Support Our Students Program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

(1) The expenditure of State appropriations on the program;
(2) The operations and the effectiveness of the program; and
(3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees on Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 18.5. Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2007-2008 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile

Justice and Delinquency Prevention shall report to the Appropriations Committees of the House of Representatives and Senate and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2007-2008 fiscal year, the amount of funds anticipated for the 2008-2009 fiscal year, and the allocation of funds by program and purpose.

REPORTING ON TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT CENTERS

SECTION 18.6.(a) The Department of Juvenile Justice and Delinquency Prevention shall continue quarterly reporting during the 2007-2008 fiscal year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the implementation of the treatment staffing model at Samarkand and Stonewall Jackson Youth Development Centers, including the latest results of the evaluation of the pilot treatment staffing models at the Centers and the progress in implementing the model at other youth development centers.

SECTION 18.6.(b) The Department shall implement the staffing treatment model presented to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee as part of the Department's November 14, 2006, report regarding the joint use with the Department of Correction of the Swannanoa Youth Development Center campus.

The staffing levels of the new youth development centers shall be capped at 66 staff for a 32-bed facility and 198 staff for the 96-bed facility for the 2007-2009 fiscal biennium. Staffing ratios shall be no more than 2.1 staff per every juvenile committed at every other existing youth development center.

SECTION 18.6.(c) In the April 1, 2008, report, the Department shall include a recommendation on whether the staffing and budget for youth development centers should be modified to reflect the results of the pilot treatment programs.

PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL PROJECTS

SECTION 18.7. The Department of Juvenile Justice and Delinquency Prevention shall report quarterly during the 2007-2009 fiscal biennium, beginning October 1, 2007, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the Department's progress in the planning, design, and construction of new youth development centers. The report shall include:

(1) An overall project schedule for each new youth development center showing the original estimated date for construction completion and the original estimated date for occupancy by juvenile offenders, compared to the latest projected dates.

(2) An explanation of significant delays in the schedule or any potential cost increase.

The Office of State Construction and the Capital Improvement Section of the Office of State Budget and Management shall assist the Department of Juvenile Justice and Delinquency Prevention in the preparation of the report required by this section.

STUDY OF STATE DETENTION CENTERS

SECTION 18.8. The Department of Juvenile Justice and Delinquency Prevention shall study the nine juvenile detention centers that are operated by the State. For each of the facilities, the review shall include:

(1) Recent admission trends and projections of future population.
(2) The offense history and assessed needs of the population.
(3) Whether staffing levels are appropriate for the number and types of offenders housed in the facility.
(4) Whether the center has adequate housing capacity.
(5) Determine the repair and renovation needs and estimate the cost of any repairs or renovations.
(6) The estimated cost to plan, design, and construct new detention centers, if appropriate.
(7) Information on security and control of the facility, including assaults, escapes, and infractions.

The Department shall report its findings to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2008.

YOUTH DEVELOPMENT CENTER SCHOLARSHIPS

SECTION 18.9. Funds appropriated to the North Carolina Community College Foundation during the 2003-2004 fiscal year in S.L. 2003-284 for community college scholarships for students who have completed their commitment to a Youth Development Center and who have obtained a high school diploma or its equivalent are hereby transferred to the Department of Juvenile Justice and Delinquency Prevention. The Department of Juvenile Justice and Delinquency Prevention shall administer the community college scholarship program described in this section.

REPORT ON ECKERD FAMILY FOCUS ON REHABILITATIVE TREATMENT (EFFORT) PROJECT

SECTION 18.10. The Department and Eckerd Family Youth Alternatives, Inc., shall report by April 1, 2008, and quarterly thereafter to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the progress of the Eckerd Family Focus on Rehabilitative Treatment (EFFORT) project. The report shall include lessons learned from the EFFORT project, staff assignments by shift, and implementation of the therapeutic model.

PROGRESS REPORT ON JOINT USE BY THE DEPARTMENT OF CORRECTION AND THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION OF THE SWANNANOA VALLEY YOUTH DEVELOPMENT CENTER

SECTION 18.11. The Department of Juvenile Justice and Delinquency Prevention and the Department of Correction shall report quarterly during the 2007-2009 fiscal biennium, beginning October 1, 2007, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the joint use by both departments of the Swannanoa Valley Youth

Development Center. The report shall include an explanation of significant delays in converting the Swannanoa Valley Youth Development Center into a facility that functions as an adult female correctional center as well as a youth development center and any cost increase related to that conversion.

PART XIX. DEPARTMENT OF ADMINISTRATION

REDESIGNATION OF THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES

SECTION 19.1.(a) Part 14A of Article 9 of Chapter 143B of the General Statutes is repealed.

SECTION 19.1.(b) Pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, the Governor shall redesignate the operation and function of the Governor's Advocacy Council for Persons with Disabilities from the Department of Administration to a nongovernmental entity. The Governor shall follow the federal statutory procedure for redesignation found at 45 C.F.R. § 1386.20, with a target transfer date of July 1, 2007.

SECTION 19.1.(c) G.S. 120-123(3) is repealed.

SECTION 19.1.(d) G.S. 122A-5.11(a)(5) reads as rewritten:

"(a) The Housing Coordination and Policy Council shall consist of 15 representatives, as follows:

…

(5) One member of the ~~Governor's Advocacy Council for Persons with Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, who is familiar with the housing needs of the disabled.

…."

SECTION 19.1.(e) G.S. 122C-31(b) reads as rewritten:

"(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Secretary shall notify the ~~Governor's Advocacy Council for Persons With Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Secretary shall provide the ~~Council~~ agency access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council~~ agency shall use the information in accordance with its powers and duties under ~~G.S. 143B-403.1 and~~ applicable State and federal law and regulations."

SECTION 19.1.(f) G.S. 122C-31(e) reads as rewritten:

"(e) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary or the ~~Council.~~ agency. In carrying out the requirements of this section, the Secretary and the ~~Council~~ agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

SECTION 19.1.(g) G.S. 131D-10.6B(b) reads as rewritten:

"(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Department shall notify the ~~Governor's Advocacy Council for Persons With Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Department shall provide the ~~Council~~ agency access to the information about each death reported to the ~~Council~~ agency pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department, and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council~~ agency shall use the information in accordance with its powers and duties under ~~G.S. 143B-403.1 and~~ applicable State and federal law and regulations."

SECTION 19.1.(h) G.S. 131D-10.6B(d) reads as rewritten:

"(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the ~~Council.~~ agency. In carrying out the requirements of this section, the Department and the ~~Council~~ agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

SECTION 19.1.(i) G.S. 131D-34.1(b) reads as rewritten:

"(b) Upon receipt of notification from an adult care home in accordance with subsection (a) of this section, the Department of Health and Human Services shall notify the ~~Governor's Advocacy Council for Persons With Disabilities~~ State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Department shall provide the ~~Council~~ agency access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council~~ agency shall use the information in accordance with its powers and duties under ~~G.S. 143B-403.1 and~~ applicable State and federal law and regulations."

SECTION 19.1.(j) G.S. 131D-34.1(d) reads as rewritten:

"(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the ~~Council.~~ agency. In carrying out the requirements of this section, the Department and the ~~Council~~ agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

SECTION 19.1.(k) Not later than May 1, 2008, the Department of Administration and the Office of State Personnel shall report to the House Appropriations Subcommittee on General Government and the Senate Appropriations Subcommittee on General Government on the placement or compensation of all State

employees affected by the redesignation of the Governor's Advocacy Council for Persons with Disabilities.

SECTION 19.1.(l) This section is effective on the effective date of the redesignation and transfer of the operation and function of the Governor's Advocacy Council for Persons with Disabilities from the Department of Administration to a nongovernmental entity under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402. Any funds appropriated to the Governor's Advocacy Council for Persons with Disabilities revert to the General Fund on that date.

SEXUAL ASSAULT/RAPE CRISIS CENTER FUNDING

SECTION 19.2.(a) The Department of Administration, the Council for Women, and the Domestic Violence Commission shall distribute funds to the North Carolina Coalition Against Sexual Assault and to rape crisis centers. To receive funds, rape crisis centers shall meet the following criteria:

(1) Operate as a private, nonprofit organization or a local unit of government applying for a rape crisis center that has provided basic services, as defined by the Council for Women and the Domestic Violence Commission, for a one-year period before the date of application;

(2) Have a mission statement that clearly specifies rape crisis services are provided;

(3) Act in support of victims of rape or sexual assault by providing assistance to ensure victims' interests are represented in law enforcement and legal proceedings and support and referral services are provided in medical and community settings; and

(4) Provide a 24-hour crisis hotline.

SECTION 19.2.(b) Grant funds allocated from the General Fund to the Department of Administration, the Council for Women and the Domestic Violence Commission for rape crisis shall be distributed in two equal shares. The North Carolina Coalition Against Sexual Assault and rape crisis centers whose services are confined to rape crisis and sexual assault services shall be allocated the sum of fifty thousand dollars ($50,000) in each year of the 2007-2009 biennium. Organizations that contain rape crisis services in addition to domestic violence services or other support services shall receive an equal share of remaining funds in each year of the 2007-2009 biennium.

STATE ENERGY OFFICE

SECTION 19.3.(a) The State Energy Office shall develop a Strategic Plan for Energy Grants to establish criteria and guidelines to award and administer future grants. The plan shall include the proposed distribution of grant funds for energy purposes, which may include energy efficiency, renewable energy, alternative fuels, and energy conservation. The Department shall submit the plan to the Energy Policy Council and to the Chairs of the House Appropriations Committee and the Chairs of the Senate Appropriations Committee no later than November 1, 2007. After consultation with the House and Senate Appropriations Chairs, the Energy Policy Council shall approve the plan no later than March 1, 2008. With the exception of grants to be administered from funds specified in subsections (b), (c), and (d) of this section, the plan shall be approved prior to any new grants being awarded.

SECTION 19.3.(b) Of the funds appropriated in this act for the 2007-2008 fiscal year, the sum of five million dollars ($5,000,000) shall be used to establish the

Energy Efficiency Reserve. The Reserve shall be administered by the State Energy Office. The State Energy Office, in consultation with the State Construction Office, shall use the funds in the Energy Efficiency Reserve to provide funding for projects designed to make State, university, or community college facilities more energy efficient. Projects eligible to make State, university, or community college facilities more energy efficient from remaining funds in the Energy Efficiency Reserve include:

(1) Replacement of incandescent light bulbs with compact fluorescent light bulbs, installation of exit signs that employ light-emitting diode (LED) technology, the installation of occupancy sensors or optical sensors, and other lighting efficiency improvements.

(2) For windows that need replacement, installation of more energy efficient windows.

(3) Insulation improvements when practicable.

(4) Replacement of inefficient or oversized heating, ventilation, and air conditioning (HVAC) systems when those systems are subject to replacement, and installation of programmable automation systems.

(5) Installation of aerators in sink faucets that reduce the flow rate, and other water system projects that reduce water consumption.

(6) Any other retrofit or replacement projects that make State, university, or community college facilities more energy efficient for which the incremental cost of the project will be equal to or less than the energy or water savings that result over a period of three years after completion.

Funds appropriated to the Reserve for the 2007-2008 fiscal year shall not revert and shall remain available until expended. The State Energy Office shall report to the House of Representatives and Senate Appropriations Committees on the use of the Reserve funds no later than May 1, 2008.

SECTION 19.3.(c) Of the funds appropriated in this act for the 2007-2008 fiscal year, the sum of six hundred thousand dollars ($600,000) shall be used to administer the Utility Savings Initiative.

SECTION 19.3.(d) Of the funds appropriated in this act, the sum of one million three hundred eighty-two thousand five hundred dollars ($1,382,500) for the 2007-2008 fiscal year and the sum of two million six hundred ninety thousand dollars ($2,690,000) for the 2008-2009 fiscal year shall be used to fund the three university energy programs: The North Carolina A&T State University Center for Energy Research and Technology, the North Carolina State University Solar Center, and the Appalachian State University Energy Center. The grant funds shall be distributed to maintain the 2006-2007 fiscal year funding levels from grants awarded by the Energy Office. If grant funds are insufficient to maintain this funding level, funds shall be distributed based on the same proportion of 2006-2007 fiscal year funding.

SECTION 19.3.(e) The Office of State Budget and Management, in consultation with the Department of Administration and the Office of State Personnel, shall conduct a staffing analysis of the State Energy Office to determine appropriate staffing levels and job classifications based on the shift in the mission of the State Energy Office from grant making to a focus on energy efficiency in State buildings. Upon completion of the staffing analysis, the Office of State Budget and Management shall submit a final report outlining its findings to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by October 31, 2007.

The Department of Administration shall implement to the greatest extent possible the recommendations of the final report. It shall use internal staff resources whenever possible, instead of contractual services, to conduct energy efficiency audits of State buildings. The Department of Administration shall report to the House and Senate Chairs of the General Government Appropriations Committees on the status of its implementation of the OSBM Staffing Analysis report no later than May 1, 2008.

PART XX. OFFICE OF THE STATE CONTROLLER

OVERPAYMENTS AUDIT

SECTION 20.1.(a) During the 2007-2009 biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

SECTION 20.1.(b) For the 2007-2009 biennium, five hundred thousand dollars ($500,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

SECTION 20.1.(c) All funds available in the Special Reserve Account 24172 on July 1 of each year of the 2007-2009 biennium are transferred to the General Fund on that date.

SECTION 20.1.(d) Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2008 Regular Session of the 2007 General Assembly.

SECTION 20.1.(e) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account 24172 and the disbursement of that revenue.

PART XXI. DEPARTMENT OF CULTURAL RESOURCES

GRASSROOTS ARTS PROGRAM FUNDING

SECTION 21.1.(a) G.S. 143B-122 reads as rewritten:

"§ **143B-122. Distribution of funds.**

~~Funds~~ Of the funds available under the Grassroots Arts ~~Program~~ Program, twenty percent (20%) of the total shall be distributed among the counties equally, and the remaining eighty percent (80%) shall be distributed among the counties on a per capita basis."

SECTION 21.1.(b) Any funds distributed by the Department of Cultural Resources under the Grassroots Arts Program for the 2000-2001 through 2006-2007 fiscal years are hereby ratified, validated, and confirmed.

GRANT-IN-AID FOR THE JEWISH HERITAGE FOUNDATION

SECTION 21.3. Of the funds appropriated to the Department of Cultural Resources for the 2007-2008 fiscal year, the Department shall use two hundred fifty thousand dollars ($250,000) for a grant-in-aid to the Jewish Heritage Foundation of

North Carolina, a nonprofit corporation, to be used for the production of the film documentary, "Down Home: Jewish Life in North Carolina".

PART XXII. OFFICE OF THE GOVERNOR

HOUSING FINANCE AGENCY SHALL CONTINUE AND EXPAND THE NORTH CAROLINA HOME PROTECTION PILOT PROGRAM AND LOAN FUND

SECTION 22.1.(a) The North Carolina Housing Finance Agency shall continue, develop, implement, and administer a pilot program to assist North Carolina workers who have lost jobs as a result of changing economic conditions in North Carolina when the workers are in need of assistance to avoid losing their homes to foreclosure. The Agency shall do all of the following:

(1) Develop and administer the North Carolina Home Protection Pilot Program and Loan Fund to ensure that workers in the counties selected for the Pilot have assistance to avoid losing their homes to foreclosure. The Program shall include all counties that had greater than seven percent (7%) average unemployment in the 2004-2005 fiscal year.

(2) Make loans secured by liens on residential real property located in North Carolina to property owners who are eligible for those loans.

(3) Develop and administer procedures by which property owners at risk of being foreclosed upon may qualify for assistance.

(4) Designate, approve, and fund nonprofit counseling agencies in counties participating in the Program to be available to assist the Agency in implementing the provisions of this section, provide services such as direct mortgagee negotiations on behalf of unemployed workers, and process loan applications for the Agency.

(5) Develop and fund enhanced methods by which workers may be notified of foreclosure mitigation services, may easily contact local nonprofit counseling agencies, and may apply for loans from the Agency.

(6) No later than April 1, 2008, report to the Chairs of the Appropriations Committees of the Senate and the House of Representatives on the effectiveness of the Program in accomplishing its purposes and provide any other information the Agency determines is pertinent or that the General Assembly requests.

SECTION 22.1.(b) As used in this section, the following definitions apply:

(1) Agency. – The North Carolina Housing Finance Agency.

(2) Counseling agency. – A nonprofit counseling agency located in North Carolina that is approved by the North Carolina Housing Finance Agency.

(3) Mortgage. – An obligation evidenced by a security document and secured by a lien upon real property located within North Carolina, including a deed of trust and land sale agreement. Mortgage also means an obligation evidenced by a security lien on real property upon which an owner-occupied mobile home is located.

(4) Mortgagee. – The owner of a beneficial interest in a mortgage loan, the servicer for the owner of a beneficial interest in a mortgage loan, or the

trustee for a securitized trust that holds title to a beneficial interest in a mortgage loan.

SECTION 22.1.(c) Notwithstanding Chapters 23, 24, and 45 of the General Statutes or any other provision of law, upon the proper filing of an application for loan assistance by a mortgagor under this section, a mortgagee shall not do the following:

(1) Accelerate the maturity of any mortgage obligation covered under this section.
(2) Commence or continue any legal action, including mortgage foreclosure pursuant to Chapter 45 of the General Statutes, to recover the mortgage obligation.
(3) Take possession of any security of the mortgagor for the mortgage obligation.
(4) Procure or receive a deed in lieu of foreclosure.
(5) Enter judgment by confession pursuant to a note accompanying a mortgage.
(6) Proceed to enforce the mortgage obligation pursuant to applicable rules of civil procedure for a period of 120 days following the date of the mortgagor's properly filed application.

The provisions of this section shall not apply if the mortgagee receives notice from the Agency that the mortgagor's application has been denied.

If a mortgagee acts as proscribed in subdivisions (1) through (6) of this subsection, a mortgagor shall be entitled to injunctive relief without the necessity of providing a bond. This relief shall be in addition to any defenses available under G.S. 45-21.16(d) and any other remedies at law or equity.

Upon the Agency's receipt of a properly filed mortgagor's application for loan assistance, the Agency shall mail notice of the application to the mortgagor's mortgagee within five business days of the Agency's receipt of the application. The Agency shall also mail notice of the acceptance or denial of the mortgagor's application to the mortgagee within five days of the Agency's determination. Notice shall be deemed sufficient if sent to the last known address of the mortgagee.

SECTION 22.1.(d) Rule Making. – Solely with respect to the adoption of procedures for the pilot program by which property owners at risk of being foreclosed upon may qualify for assistance, the Agency is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of procedures, the Agency shall:

(1) Publish the proposed procedures in the North Carolina Register at least 30 days prior to the adoption of the final procedures.
(2) Accept oral and written comments on the proposed procedures.
(3) Hold at least one public hearing on the proposed procedures.

SECTION 22.1.(e) Funds appropriated under this act to the Agency that are unexpended and unencumbered shall not revert but shall remain available to be used for the expansion of the program to additional counties as provided by this section.

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

PART XXIII. OFFICE OF STATE BUDGET AND MANAGEMENT

MILITARY MORALE, RECREATION, AND WELFARE FUNDS

SECTION 23.1. Funds appropriated in this act to the Office of State Budget and Management to the Reserve for the Military Morale, Recreation, and Welfare Fund

and distributed to each military installation on a per capita basis shall be deposited in the Military Morale, Recreation, and Welfare Fund for each installation and used only for community services and other expenditures to improve quality of life programs for military members and their families in North Carolina.

LICENSING BOARD REPORTING REQUIREMENT

SECTION 23.2. G.S. 93B-2(b) reads as rewritten:

"(b) Each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous 12-month period."

STUDY OF THE WORKERS' COMPENSATION PROGRAM IN STATE AGENCIES

SECTION 23.3. The Office of State Budget and Management, in consultation with the Office of State Personnel and the Office of State Controller, shall conduct a study of the Workers' Compensation Program in State agencies and institutions to determine if the third-party administration of the program continues to be the most effective mode of administration; to determine if the current method of funding is still the most effective method; to determine whether excess coverage policies are needed; and to identify any other operational inefficiencies in program operations that might exist. The Office of State Budget and Management shall submit a final report outlining the related findings and recommendations for improvements to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by March 1, 2008.

MODIFY STATE FIRE PROTECTION GRANT FUND

SECTION 23.4.(a) Effective July 1, 2007, G.S. 58-85A-1(c) reads as rewritten:

"(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund ~~at least three million eighty thousand dollars ($3,080,000)~~ up to four million one hundred eighty thousand dollars ($4,180,000) from the General Fund, ~~one hundred fifty thousand dollars ($150,000)~~ one hundred fifty-eight thousand dollars ($158,000) from the Highway Fund, and ~~nine hundred seventy thousand dollars ($970,000)~~ one million three hundred forty-five thousand dollars ($1,345,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

SECTION 23.4.(b) Effective July 1, 2008, G.S. 58-85A-1(c), as amended by subsection (a) of this section, reads as rewritten:

"(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund up to ~~four million one hundred eighty thousand dollars ($4,180,000)~~three million eight hundred eighty thousand dollars ($3,880,000) from the General Fund, one hundred fifty-eight thousand dollars ($158,000) from the Highway

Fund, and one million three hundred forty-five thousand dollars ($1,345,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

PART XXIV. DEPARTMENT OF REVENUE

WHITE GOODS DISPOSAL TAX PROGRAM

SECTION 24.1. G.S. 105-187.24 reads as rewritten:

"§ **105-187.24. Use of tax proceeds.**

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed ~~two hundred twenty-five thousand dollars ($225,000)~~ four hundred twenty-five thousand dollars ($425,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

SCRAP TIRE DISPOSAL TAX PROGRAM

SECTION 24.2. G.S. 105-187.19(a) reads as rewritten:

"(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed ~~two hundred twenty-five thousand dollars ($225,000)~~ four hundred twenty-five thousand dollars ($425,000) a year, as reimbursement to the Department."

EITC REQUIREMENTS

SECTION 24.3.(a) The Department of Revenue shall include language in its printed booklets for the individual income tax return that identifies the availability of the State and federal earned income tax credit.

SECTION 24.3.(b) In order to better ensure taxpayers receive the tax benefits for which they qualify, software companies producing computer programs for tax calculation should design all tax calculation software, other than forms library products, to automatically compute an individual's eligibility for the State and federal earned income tax credit when (i) the taxpayer is a North Carolina resident and (ii) the taxpayer is preparing both the federal and North Carolina individual income tax returns with the tax calculation software.

SECTION 24.3.(c) This section is effective for taxable years beginning on or after January 1, 2007.

TRANSFER REVENUE HEARINGS POSITIONS TO DOA

SECTION 24.4. The positions of one Assistant Secretary and one associated support position, presently assigned to the Department of Revenue for the purpose of hearing appeals on the cases, are transferred to the Department of Administration by a Type I transfer as defined by G.S. 143A-6.

PART XXV. STATE BOARD OF ELECTIONS

STATE BOARD OF ELECTIONS MOE AND HAVA FUND USE

SECTION 25.1.(a) The State Board of Elections shall use funds in the Maintenance of Effort Reserve as follows:

(1) $1,500,000 nonrecurring in fiscal year 2007-2008 and $500,000 nonrecurring in fiscal year 2008-2009 to rebuild the State Elections Information Management System (SEIMS).

(2) $100,000 recurring in fiscal year 2007-2008 for the required training for all county boards of elections staff on voting equipment operating procedures.

(3) $427,500 recurring in fiscal year 2007-2008 to centralize ballot coding in North Carolina to provide oversight, ensure accuracy of election preparation, and reduce errors with ballot styles.

(4) $150,000 recurring in fiscal year 2007-2008 to hire 20 additional election technicians across the State to deal with technical problems that arise on a 2008 Election Day in which a federal election is on the ballot.

SECTION 25.1.(b) The State Board of Elections shall use funds in the Election Fund under G.S. 163-82.28 (HAVA funds) as follows:

(1) $2,525,000 nonrecurring in fiscal year 2007-2008 and $2,525,000 nonrecurring in fiscal year 2008-2009 for maintenance performed on voting equipment.

(2) $750,000 nonrecurring in fiscal year 2007-2008 and $1,750,000 nonrecurring in fiscal year 2008-2009 provided for additional one-stop absentee voting (early voting) sites for the 2008 first primary and general election if a federal election is on the ballot.

SECTION 25.1.(c) Section 1 of S.L. 2007-144 is repealed.

PART XXVI. DEPARTMENT OF THE STATE TREASURER

FUNDS FOR AUDITING STATE EMPLOYEE SERVICE RECORDS; REPORTING REQUIREMENTS

SECTION 26.1.(a) Of the funds appropriated in this act to the Department of State Treasurer, Retirement Systems Division, the sum of one million two hundred

thousand dollars ($1,200,000) for the 2007-2008 fiscal year shall be used to contract for the auditing of State employee service records. The Retirement Systems Division shall submit an interim report on the number of State employee service records verified to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division no later than April 30, 2008.

SECTION 26.1.(b) The Department of State Treasurer, Retirement Systems Division, shall report quarterly beginning October 31, 2007, on all contracts by funding sources and on the use of lapsed salary savings to the Joint Legislative Commission on Governmental Operations, the Chairs of the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology and to the Fiscal Research Division.

PART XXVII. DEPARTMENT OF TRANSPORTATION

ONE-STOP SHOPS FOR DRIVERS LICENSES AND REGISTRATION PLATES

SECTION 27.1. The Department of Transportation, Division of Motor Vehicles, is prohibited from opening drivers license issuance and vehicle registration issuance and renewal One-Stop Shops until the General Assembly has considered and appropriated funds for the purpose of One-Stop Shops.

The Department of Transportation shall develop a business plan that thoroughly outlines the operational plans of a combined function center, a detailed budget for each proposed location, and any identified savings gleaned from the combined services. In addition, the Division of Motor Vehicles shall conduct an analysis on the anticipated number of transactions and the impact to independent tag agents in those areas. The report is due to the Joint Legislative Transportation Oversight Committee, the Joint Appropriations Subcommittee for Transportation, and the Fiscal Research Division by March 15, 2008.

CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 27.2.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2009-2010	$1,818.3 million
For Fiscal Year 2010-2011	$1,830.7 million
For Fiscal Year 2011-2012	$1,841.2 million
For Fiscal Year 2012-2013	$1,854.0 million

SECTION 27.2.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2009-2010	$1,154.1 million
For Fiscal Year 2010-2011	$1,170.9 million
For Fiscal Year 2011-2012	$1,187.5 million
For Fiscal Year 2012-2013	$1,205.1 million

FUNDS FOR ECONOMIC DEVELOPMENT, SPOT SAFETY, AND TRANSPORTATION IMPROVEMENT PROGRAM PROJECTS

SECTION 27.3. Of the funds appropriated by this act to the Department of Transportation in fiscal year 2007-2008, fourteen million dollars ($14,000,000) shall be

allocated equally among the 14 Highway Divisions for economic development transportation projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. Funds in each Division not needed for economic development projects shall be used on spot safety needs to enhance safety, reduce congestion, improve traffic flow, reduce accidents, and for system preservation. Funds not identified for economic development and spot safety projects prior to December 31, 2007, may be used on Transportation Improvement Program projects. Any funds allocated to the 14 Highway Divisions for economic development, spot safety, and transportation improvement programs pursuant to this section, or any previous certified budget, that is not allotted by June 30, 2009, shall be reallocated equally among the 14 Highway Divisions for use in the 2009-2011 biennium under the same criteria listed in this section. The Secretary of Transportation shall not prevent or delay the implementation of any projects approved by the Board of Transportation pursuant to this section.

CONSOLIDATION OF RURAL FUNDING PROGRAMS BY THE DEPARTMENT OF TRANSPORTATION'S PUBLIC TRANSPORTATION DIVISION

SECTION 27.4. The Department of Transportation, Public Transportation Division, may consolidate its rural funding programs for vehicles, technology, and facilities into one large capital program. The Division shall have the flexibility to transfer funding from the consolidated capital program to the operating programs, based on the ability to leverage additional federal funds to meet the capital needs of rural transportation systems. The Department shall report on the use of funds and effectiveness of the provisions of this section to the Joint Appropriations Subcommittee on Transportation and the Fiscal Research Division by March 15, 2008.

SMALL CONSTRUCTION AND CONTINGENCY FUNDS

SECTION 27.5. Of the funds appropriated in this act to the Department of Transportation:

(1) Twenty-one million dollars ($21,000,000) shall be allocated in each fiscal year for small construction projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.

(2) Fifteen million dollars ($15,000,000) in fiscal year 2007-2008 and fifteen million dollars ($15,000,000) in fiscal year 2008-2009 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

FUNDS FOR UNSAFE OR OBSOLETE FIELD FACILITIES

SECTION 27.6. Of the funds appropriated in this act to the Department of Transportation, the Department may use funds not to exceed seventy-five hundredths of one percent (.75%) for maintenance and construction programs for major repair, renovation, or replacement of its field facilities that fail to meet safety standards or that are obsolete for current or future use. Prior to expending these funds, the Department shall submit its proposed budget for these expenditures to the Senate Appropriations Subcommittee on Transportation, the House of Representatives Appropriations Subcommittee on Transportation, and the Joint Legislative Transportation Oversight Committee each year.

MODIFY GLOBAL TRANSPARK DEBT

SECTION 27.7. G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144, Section 2 of S.L. 2005-201, and Section 28.17 of S.L. 2005-276 reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

…

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars ($25,000,000), that have a final maturity not later than October 1, ~~2007.~~2009. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

…."

DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT PROGRAMS

SECTION 27.9.(a) The Department of Transportation may continue the productivity pilot programs in the road oil, bridge inspection and pavement markings units implemented under Section 29.3 of S.L. 2003-284 and Section 28.9 of

S.L. 2005-276. The Department of Transportation may expend up to one-half of one percent (0.50%) of the budget allocation for these programs for employee incentive payments to maintain the increased efficiency and productivity under these programs.

SECTION 27.9.(b) The Department of Transportation may establish up to two additional pilot programs to test incentive pay for employees as a means of increasing and maintaining efficiency and productivity.

These programs may be selected by the Department of Transportation. Up to one-half of one percent (0.50%) of the budget allocation for these programs may be used to provide employee incentive payments.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs. Pilot programs implemented under this subsection shall last no more than two years.

SECTION 27.9.(c) The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs developed under this section at least 30 days prior to their implementation.

DIVISION OF MOTOR VEHICLES LICENSE PLATE RECALL PROGRAM

SECTION 27.11.(a) Of the funds appropriated from the Highway Fund to the Department of Transportation under this act, the Division of Motor Vehicles may expend the sum of two hundred eighty-two thousand one hundred ninety-nine dollars ($282,199) for fiscal year 2007-2008 and the sum of ninety-nine thousand dollars ($99,000) for fiscal year 2008-2009 to recall vehicle license plates. The Division shall develop a schedule by which approximately 94,000 of the oldest license plates are recalled annually for the next five years. Each fiscal year after 2008-2009, the General Assembly intends to appropriate from the Highway Fund to the Department of Transportation the sum of ninety-nine thousand dollars ($99,000) in recurring funds for the Division to implement a continuous license plate recall program.

SECTION 27.11.(b) The Division shall report to the Joint Appropriations Subcommittee on Transportation and the Fiscal Research Division no later than May 1, 2008, on the progress of the vehicle license plate recall schedule and the implementation of the continuous license plate recall program.

PHASE OUT TRANSFERS FROM THE HIGHWAY FUND AND THE HIGHWAY TRUST FUND TO THE GENERAL FUND AND OTHER STATE AGENCIES

SECTION 27.12. It is the intent of the General Assembly to phase out funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and to other State agencies over a five-year period of time. The funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and to other State agencies would be reduced to fifty percent (50%) of the current funds transfers, effective July 1, 2009. The funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and other State agencies would be reduced an additional fifty percent (50%) of the amount being transferred on June 30, 2011, effective July 1, 2011. The funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and other State agencies would be eliminated completely, effective July 1, 2013.

BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 27.13. Of funds available to the Department of Transportation for maintenance, the sum of three hundred thirty thousand dollars ($330,000) for the 2007-2008 fiscal year and the sum of three hundred thirty thousand dollars ($330,000) for the 2008-2009 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars ($25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED CONTRACTS

SECTION 27.14. The Department of Transportation may implement up to two performance-based contracts for routine maintenance and operations, exclusive of resurfacing. Selection of firms to perform this work shall be made using a best-value procurement process. Prior to any advertisement for a proposed project, the Department shall report to the Joint Legislative Transportation Oversight Committee on the contractor selection criteria to be used.

ENSURE PROPERTY AND FUNDS GO TO STATE HIGHWAY FUND

SECTION 27.15. G.S. 136-16 reads as rewritten:

"§ **136-16. Funds and property converted to State Highway Fund.**

Except as otherwise provided, all funds and property collected by the Department of ~~Transportation~~ Transportation, including the proceeds from the sale of real property originally purchased with funds from the State Highway Fund, shall be paid or converted into the State Highway Fund."

DIVISION OF MOTOR VEHICLES TO REPORT CLOSINGS OF DRIVERS LICENSE OFFICES AND REOPEN THE DRIVERS LICENSE OFFICE IN TABOR CITY

SECTION 27.16. The Division of Motor Vehicles shall report the closing of any drivers license office to the Joint Legislative Transportation Oversight Committee at least 60 days before the closure. The report shall contain the location of the office by city and county, the number of customers served in that office in the preceding 12 months, the cost of operating the office to be closed, the reasons for the closure, where the customers will be directed for service after the closure, and the Division's intent to provide displaced customers with future service. Of the funds appropriated to the Department of Transportation, Division of Motor Vehicles, the Division shall reopen and operate a full-time drivers license office in Tabor City, Columbus County.

INCREASE ADMINISTRATIVE APPROPRIATION FOR THE HIGHWAY TRUST FUND

SECTION 27.17. G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four percent (4%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section for the 2003-2004 fiscal ~~year and~~ year, three and eight-tenths percent (3.8%) through fiscal year 2006-2007, and four and two-tenths percent (4.2%) thereafter, may be used each fiscal year by the Department

for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as follows:

(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.

(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

DEPARTMENT OF TRANSPORTATION TO MAINTAIN DIVISION BUDGETS

SECTION 27.18. The Department of Transportation shall not reduce any of the 14 Highway Divisions' funding to adjust the administrative budget of the Department to cover the costs of repaving Interstate 40 between Highway 751 and Highway 147 in Durham County as required by this act. The Department shall prepare a budget plan to reduce administrative budgets and present the plan to the Office of State Budget and Management for approval. The reductions will be taken from administrative budgets of Central Administration of the Department, Division of Motor Vehicles, and other central Divisions, excluding the 14 Highway Divisions' administrative and operations budgets.

The Department shall report its detailed budget plan for administrative reductions to cover the cost of repaving Interstate 40 between Highway 751 and

Highway 147 in Durham County to the Joint Legislative Transportation Oversight Committee no later than October 1, 2007.

VIPER BUILD OUT FUNDS

SECTION 27.19. Of the funds appropriated, for fiscal year 2007-2008, to the State Highway Patrol by this act, the State Highway Patrol may use up to ten million dollars ($10,000,000) to continue the build out of the Voice Interoperability Plan for Emergency Responders (VIPER) system. The State Highway Patrol shall report any expenditure made for the build out of the VIPER system, and any planned expenditures for the continued build out of the VIPER system, to the Joint Legislative Transportation Oversight Committee and the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee no later than March 31, 2008.

PART XXVIII. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 28.1.(a) Effective July 1, 2007, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirty thousand six hundred twenty-nine dollars ($130,629)~~ one hundred thirty-five thousand eight hundred fifty-four dollars ($135,854) annually, payable monthly."

SECTION 28.1.(b) Effective July 1, 2007, the annual salaries for the members of the Council of State, payable monthly, for the 2007-2008 and 2008-2009 fiscal years are:

Council of State	Annual Salary
Lieutenant Governor	$119,901
Attorney General	119,901
Secretary of State	119,901
State Treasurer	119,901
State Auditor	119,901
Superintendent of Public Instruction	119,901
Agriculture Commissioner	119,901
Insurance Commissioner	119,901
Labor Commissioner	119,901

NONELECTED DEPARTMENT HEAD/SALARY INCREASES

SECTION 28.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2007-2008 and 2008-2009 fiscal years are:

Nonelected Department Heads	Annual Salary
Secretary of Administration	$117,142
Secretary of Correction	117,142
Secretary of Crime Control and Public Safety	117,142
Secretary of Cultural Resources	117,142
Secretary of Commerce	117,142
Secretary of Environment and Natural Resources	117,142
Secretary of Health and Human Services	117,142

Secretary of Juvenile Justice and Delinquency Prevention	117,142
Secretary of Revenue	117,142
Secretary of Transportation	117,142

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 28.3. The annual salaries, payable monthly, for the 2007-2008 and 2008-2009 fiscal years for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$ 106,621
State Controller	149,216
Commissioner of Motor Vehicles	106,621
Commissioner of Banks	119,901
Chairman, Employment Security Commission	133,161
State Personnel Director	117,142
Chairman, Parole Commission	97,358
Members of the Parole Commission	44,942
Chairman, Utilities Commission	133,531
Members of the Utilities Commission	119,901
Executive Director, Agency for Public Telecommunications	89,884
Director, Museum of Art	109,252
Executive Director, North Carolina Agricultural Finance Authority	103,781
State Chief Information Officer	149,126

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 28.4.(a) The annual salaries, payable monthly, for specified judicial branch officials for the 2007-2008 and 2008-2009 fiscal years are:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	$ 137,160
Associate Justice, Supreme Court	133,576
Chief Judge, Court of Appeals	130,236
Judge, Court of Appeals	128,011
Judge, Senior Regular Resident Superior Court	124,532
Judge, Superior Court	121,053
Chief Judge, District Court	109,923
Judge, District Court	106,445
District Attorney	116,112
Administrative Officer of the Courts	123,346
Assistant Administrative Officer of the Courts	112,665
Public Defender	116,112

SECTION 28.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed sixty-nine thousand forty-seven dollars ($69,047), and the

minimum salary of any assistant district attorney or assistant public defender is at least thirty-six thousand eighty-two dollars ($36,082), effective July 1, 2007.

SECTION 28.4.(c) Effective July 1, 2007, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%).

SECTION 28.4.(d) Effective July 1, 2007, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%).

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 28.5. Effective July 1, 2007, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	~~$77,112~~ $80,196
100,000 to 149,999	~~86,532~~ 89,993
150,000 to 249,999	~~95,954~~ 99,792
250,000 and above	~~105,378.~~109,593.

~~The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:~~

~~Population~~	~~Annual Salary~~
~~Less than 100,000~~	~~73%~~
~~100,000 to 149,999~~	~~82%~~
~~150,000 to 249,999~~	~~91%~~
~~250,000 and above~~	~~100%.~~

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

SECTION 28.6. Effective July 1, 2007, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	~~$29,925~~ $31,122
Maximum	~~51,251~~ 53,301

Deputy Clerks	Annual Salary
Minimum	~~$25,758~~ $26,788
Maximum	~~39,862.~~ 41,456."

MAGISTRATES' SALARY INCREASES

SECTION 28.7.(a) Effective July 1, 2007, G.S. 7A-171.1(a) reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	~~$30,320~~$31,533
Step 1	~~33,101~~ 34,425
Step 2	~~36,126~~ 37,571
Step 3	~~39,429~~ 41,006
Step 4	~~43,046~~ 44,768
Step 5	~~47,122~~ 49,007
Step 6	~~51,692.~~ 53,760.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4."

SECTION 28.7.(b) Effective July 1, 2007, G.S. 7A-171.1(a1)(1) reads as rewritten:

"(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	~~$24,450~~	$25,428
1 or more but less than 3 years of service	~~25,572~~	26,595
3 or more but less than 5 years of service	~~27,831.~~	28,944.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

SECTION 28.8. Effective July 1, 2007, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~ninety-seven thousand four hundred two dollars ($97,402)~~ one hundred one thousand two hundred ninety-eight dollars ($101,298) payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES

SECTION 28.9. Effective July 1, 2007, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~three hundred forty-five dollars ($345.00)~~ three hundred fifty-nine dollars ($359.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

LEGISLATIVE EMPLOYEES/SALARY INCREASES

SECTION 28.10. Effective July 1, 2007, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2006-2007 by four percent (4.0%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

SECTION 28.11.(a) The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of four percent (4.0%) including funds for the employer's retirement and social security contributions, commencing July 1, 2007, for all community college employees supported by State funds.

SECTION 28.11.(b) The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an additional annual salary increase of one percent (1.0%) for Community College faculty and professional staff, including funds for the employer's retirement and social security contributions, supported by State funds.

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

SECTION 28.12.(a) Effective July 1, 2007, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of five percent (5%) for faculty. The percentage annual salary increase of five percent (5%) authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors may use a portion of the annual salary increase provided by this section to improve competitive national peer rankings for faculty.

SECTION 28.12.(b) Effective July 1, 2007, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of four percent (4.0%) for nonfaculty. The percentage annual salary increase of four percent (4.0%) authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 28.12.(c) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, to provide an average annual salary increase of five percent (5%) but at least an annual increase of one thousand two hundred forty dollars ($1,240), including funds for the employer's retirement and social security contributions, commencing July 1, 2007, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

STATE AGENCY TEACHERS' COMPENSATION

SECTION 28.13. Funds in the Reserve for Compensation Increases shall be used for experience step increases for employees of schools operated by the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule.

MOST STATE EMPLOYEES/SALARY INCREASES

SECTION 28.14.(a) The salaries in effect June 30, 2007, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund, shall be increased, effective July 1, 2007, by four percent (4%).

SECTION 28.14.(b) Except as otherwise provided in this act, the fiscal year 2007-2008 salaries for permanent full-time State officials and persons in exempt positions that are recommended by the Governor and set by the General Assembly shall be increased by four percent (4%), effective July 1, 2007.

SECTION 28.14.(c) The salaries in effect for fiscal year 2007-2008 for all permanent part-time State employees shall be increased, effective July 1, 2007, by the four percent (4%) salary increase provided for permanent full-time employees covered under this part.

SECTION 28.14.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase, effective July 1, 2007, in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

SECTION 28.14.(e) Within regular State Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the four percent (4%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2007.

ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

SECTION 28.15.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

SECTION 28.15.(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

SECTION 28.15.(c) The salary increases provided in this act are to be effective July 1, 2007, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2007.

Payroll checks issued to employees after July 1, 2007, which represent payment of services provided prior to July 1, 2007, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject

to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

SECTION 28.15.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2007-2008 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

SECTION 28.15.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

SECTION 28.15.(f) Permanent full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the four percent (4.0%) annual increase provided by this act.

CERTAIN SALARIES SET BY GENERAL ASSEMBLY

SECTION 28.15A. G.S. 7A-65(a) reads as rewritten:

"(a) The annual salary of:

(1) District attorneys shall be ~~the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district court judge, as provided by law,~~as provided in the Current Operations Appropriations Act.

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARIES

SECTION 28.15B. For the 2007-2008 and 2008-2009 fiscal years, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

SALARY ADJUSTMENT FUND

SECTION 28.18.(a) Any remaining appropriations in the General Fund Reserve for Compensation Increases authorized for employee salary increases not required for that purpose may be used to supplement the General Fund Salary Adjustment Fund to support salary adjustments for positions supported by the General Fund. Any remaining appropriations in the Highway Fund Reserves and Transfers authorized for employee salary increases not required for that purpose may be used to supplement the Highway Fund Salary Adjustment Fund to support salary adjustments for positions supported by the Highway Fund.

SECTION 28.18.(b) Funds appropriated or otherwise transferred to the General Fund Salary Adjustment Fund or to the Highway Fund Salary Adjustment Fund by this act or any other provision of law shall be used to fund agency requests for the following purposes:

(1) Salary range revisions, special minimum rates, grade to band transfers and geographic site differential adjustments to provide competitive

salary rates for affected job classifications/groups in response to changes in labor market rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

(2) Reallocation of positions to higher level job classifications to compensate employees for more difficult duties at competitive salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

The terms 'salary range revision' and 'reallocation' as used in this section shall conform to the definitions of those terms as previously contained in the State Personnel Manual and adopted by the State Personnel Commission effective immediately prior to November 1, 2005. Funds shall only be used for salary adjustments that are in compliance with State Personnel Commission policies. Funding shall first be provided to the earliest actions approved on or before July 1, 2007, by the State Personnel Commission or the Office of State Personnel and shall not be used for other purposes including, but not limited to, in-range adjustments, career progression adjustments, or other adjustments as these terms may be defined by State personnel policy.

SECTION 28.18.(c) The Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations prior to transferring any salary adjustment funds for any State agency.

SECTION 28.18.(d) The Director of the Budget may:

(1) Transfer to General Fund budget codes from the General Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section with the oldest of the pending adjustments to be funded first.

(2) Transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section.

SECTION 28.18.(e) The Judicial Department is eligible for the funding authorized in subsection (a) of this section.

SECTION 28.18.(f) Employees subject to the State Personnel Act in The University of North Carolina System are eligible for funding authorized in subsection (a) of this section and for the purposes outlined in subsection (b) of this section.

JUDICIAL BRANCH LONGEVITY

SECTION 28.18A.(a) G.S. 7A-10(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, the Chief Justice and each of the Associate Justices shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(b) G.S. 7A-18(b) reads as rewritten:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the Court of Appeals shall receive as longevity pay an annual amount equal to

four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(c) G.S. 7A-44(b) reads as rewritten:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the superior court, regular or special, shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission or as director or assistant director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(d) G.S. 7A-65 reads as rewritten:

"§ **7A-65. Compensation and allowances of district attorneys and assistant district attorneys.**

(a) The annual salary of:

(1) District attorneys shall be the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district court judge, as provided by law,

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally.

(b) Repealed by Session Laws 1985, c. 689, s. 2.

(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as a deputy or acting district attorney. Service shall also mean service as a justice or judge of the General Court of Justice, clerk of superior court, assistant district attorney, public defender, appellate defender, or assistant public or appellate defender.

(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after

15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. "Service" means service as an assistant district attorney, district attorney, resource prosecutor, public defender, appellate defender, assistant public or appellate defender, justice or judge of the General Court of Justice, or clerk of superior court. For purposes of this subsection, "resource prosecutor" means a former assistant district attorney who has left the employment of the district attorney's office to serve in a specific, time-limited position with the Conference of District Attorneys."

SECTION 28.18A.(e) G.S. 7A-101(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the clerk's annual salary payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. Service shall mean service in the elective position of clerk of superior court, as an assistant clerk of court and as a supervisor of clerks of superior court with the Administrative Office of the Courts and shall not include service as a deputy or acting clerk. Service shall also mean service as a justice, judge, or magistrate of the General Court of Justice or as a district attorney."

SECTION 28.18A.(f) G.S. 7A-144(b) reads as rewritten:

"(b) Notwithstanding merit, longevity and other increment raises paid to regular State employees, a judge of the district court shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission or as director or assistant director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court."

SECTION 28.18A.(g) G.S. 7A-498.7 reads as rewritten:

"§ **7A-498.7. Public Defender Offices.**

(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham

16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office.

(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-44.1 that includes the county or counties of the defender district for which the public defender is being appointed.

(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(d) Subject to standards adopted by the Commission, the day-to-day operation and administration of public defender offices shall be the responsibility of the public defender in charge of the office. The public defender shall keep appropriate records and make periodic reports, as requested, to the Director of the Office of Indigent Defense Services on matters related to the operation of the office.

(e) The Office of Indigent Defense Services shall procure office equipment and supplies for the public defender, and provide secretarial and library support from State funds appropriated to the public defender's office for this purpose.

(f) Each public defender is entitled to assistant public defenders, investigators, and other staff, full-time or part-time, as may be authorized by the Commission. Assistants, investigators, and other staff are appointed by the public defender and serve at the pleasure of the public defender. Average and minimum compensation of assistants shall be as provided in the biennial Current Operations Appropriations Act. The actual salaries of assistants shall be set by the public defender in charge of the office, subject to approval by the Commission. The Commission shall fix the compensation of investigators. Assistants and investigators shall perform such duties as may be assigned by the public defender.

(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(h) The term of office of public defender appointed under this section is four years. A public defender or assistant public defender may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district attorney.

(i) A public defender may apply to the Director of the Office of Indigent Defense Services to enter into contracts with local governments for the provision by the State of services of temporary assistant public defenders pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(j) The Director of the Office of Indigent Defense Services may provide assistance requested pursuant to subsection (i) of this section only upon a showing by the requesting public defender, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(k) The terms of any contract entered into with local governments pursuant to subsection (i) of this section shall be fixed by the Director of the Office of Indigent Defense Services in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Office of Indigent Defense Services to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Office of Indigent Defense Services to maintain positions or services initially provided for under this section."

CAREER BANDING/CONTINUATION

SECTION 28.18B. Notwithstanding any other provision of law, the State Personnel Commission, the Office of State Personnel, State agencies as to their defined critical occupational groups limited to nursing, engineering, library, fiscal, and pharmacy positions, and The University of North Carolina as to its employees subject to the State Personnel Act shall begin or continue the development and implementation of career banding, effective July 1, 2007.

The Office of State Personnel shall provide quarterly updates on career banding to the Joint Legislative Commission on Governmental Operations.

The Office of State Personnel shall consult with the Joint Legislative Commission on Governmental Operations prior to the State Personnel Commission's review and approval of career banding for major occupational groups with significant labor market changes.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 28.19.(a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

Notwithstanding any other provision of law, an employer who hires or has hired a retiree as an employee shall enroll the retiree in the active group and pay the cost for the hospital-medical benefits if that retiree is employed in a position that would require the employer to pay hospital-medical benefits if the individual had not been retired.

SECTION 28.19.(b) Effective July 1, 2007, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2007-2008 fiscal year are: (i) seven and eighty-three hundredths percent (7.83%) – Teachers and State Employees; (ii) twelve and eighty-three hundredths percent (12.83%) – State Law Enforcement Officers; (iii) eleven and forty-six hundredths percent (11.46%) – University Employees' Optional Retirement System; (iv) eleven and forty-six hundredths percent (11.46%) – Community College Optional Retirement Program; (v) seventeen and thirty-one hundredths percent (17.31%) – Consolidated Judicial Retirement System; and (vi) four and ten hundredths percent (4.10%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ten hundredths percent (4.10%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 28.19.(c) Effective July 1, 2008, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2008-2009 fiscal year are: (i) seven and eighty-three hundredths percent (7.83%) – Teachers and State Employees; (ii) twelve and eighty-three hundredths percent (12.83%) – State Law Enforcement Officers; (iii) eleven and forty-six hundredths percent (11.46%) – University Employees' Optional Retirement System; (iv) eleven and forty-six hundredths percent (11.46%) – Community College Optional Retirement Program; (v) seventeen and thirty-one hundredths percent (17.31%) – Consolidated Judicial Retirement System; and (vi) four and ten hundredths percent (4.10%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ten hundredths percent (4.10%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional

Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 28.19.(d) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan's Indemnity Plan are: (i) Medicare-eligible employees and retirees – three thousand one hundred eighty-five dollars ($3,185) and (ii) non-Medicare-eligible employees and retirees – four thousand one hundred eighty-three dollars ($4,183).

SECTION 28.19.(e) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan's Preferred Provider Options Program are: (i) Medicare-eligible employees and retirees – three thousand eighty-five dollars ($3,085) and (ii) non-Medicare-eligible employees and retirees – four thousand fifty-two dollars ($4,052).

SECTION 28.19.(f) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2008-2009 fiscal year to the State Health Plan for Teachers and State Employees (Plan), including optional plans and programs under the Plan are: (i) Medicare-eligible employees and retirees – three thousand one hundred sixty-five dollars ($3,165) and (ii) non-Medicare-eligible employees and retirees – four thousand one hundred fifty-seven dollars ($4,157).

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM

SECTION 28.20.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(qqq) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

SECTION 28.20.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(bb) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

SECTION 28.20.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(v) In accordance with subsection (a) of this section, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2007, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2007, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2007, and June 30, 2007."

INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

SECTION 28.21. G.S. 58-86-55 reads as rewritten:

"§ **58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an "eligible fireman" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred sixty-five dollars ($165.00)~~ one hundred sixty-seven dollars ($167.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2006,~~ July 1, 2007, receive a pension of ~~one hundred sixty-five dollars ($165.00)~~ one hundred sixty-seven dollars ($167.00) per month.

Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred sixty-five dollars ($165.00)~~ one hundred sixty-seven dollars ($167.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to

examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of ~~Article 4~~ Article 4A of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of ~~Article 4~~ Article 4A of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a fireman or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

ENHANCE BENEFITS PAYABLE THROUGH THE NATIONAL GUARD PENSION FUND

SECTION 28.21A. G.S. 127A-40(a) reads as rewritten:

"(a) Every member and former member of the North Carolina national guard who meets the requirements hereinafter set forth shall receive, commencing at age 60, a pension of ~~eighty dollars ($80.00)~~ ninety-five dollars ($95.00) per month for 20 years' creditable military service with an additional ~~eight dollars ($8.00)~~ nine dollars fifty cents ($9.50) per month for each additional year of such service; provided, however, that the total pension shall not exceed ~~one hundred sixty dollars ($160.00)~~ one hundred ninety dollars ($190.00) per month. The requirements for such pension are that each member shall:

(1) Have served and qualified for at least 20 years' creditable military service, including national guard, reserve and active duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.

(2) Have at least 15 years of the aforementioned service as a member of the North Carolina national guard.

(3) Have received an honorable discharge from the North Carolina national guard."

INCLUDE PUBLIC DEFENDERS AS MEMBERS OF THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM

SECTION 28.21B.(a) G.S. 135-50(b) reads as rewritten:

"(b) The purpose of this Article is to improve the administration of justice by attracting and retaining the most highly qualified talent available within the State to the positions of justice and judge, district attorney and solicitor, public defender, and clerk of superior court, within the General Court of Justice."

SECTION 28.21B.(b) G.S. 135-51 reads as rewritten:

"§ **135-51. Scope.**

(a) This Article provides consolidated retirement benefits for all justices and judges, district attorneys, and solicitors who are serving on January 1, 1974, and who become such thereafter; and for all clerks of superior court who are so serving on January 1, 1975, and who become such ~~thereafter.~~ after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that date.

(b) For justices and judges of the appellate and superior court divisions of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

For district attorneys and judges of the district court of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

For clerks of superior court of the General Court of Justice who so served prior to January 1, 1975, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge, district attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after January 1, 1975, or public defender on or after July 1, 2007, shall be determined solely in accordance with the provisions of this Article."

SECTION 28.21B.(c) G.S. 135-53 reads as rewritten:

"§ **135-53. Definitions.**

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions" with respect to any member shall mean the sum of all the amounts deducted from the compensation of the member pursuant to G.S. 135-68 since he last became a member and credited to his account in the annuity savings fund, plus any amount standing to his credit pursuant to G.S. 135-67(c) as a result of a prior period of membership, plus any amounts credited to his account pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular interest on all such amounts computed as provided in G.S. 135-7(b).

(2) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the bases of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.

(2a) "Average final compensation" shall mean the average annual compensation of a member during the 48 consecutive calendar months of membership service producing the highest such average.

(3) "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided in this Article.

(4) "Board of Trustees" shall mean the Board of Trustees established by G.S. 135-6.

(4a) "Clerk of superior court" shall mean the clerk of superior court provided for in G.S. 7A-100(a).

(5) "Compensation" shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge, or district attorney, or clerk of superior ~~court.~~ court, or public defender.

(6) "Creditable service" shall mean for any member the total of his prior service plus his membership service.

(6a) "District attorney" shall mean the district attorney or solicitor provided for in G.S. 7A-60.

(7) "Filing" when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.

(8) "Final compensation" shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.

(9) "Judge" shall mean any justice or judge of the General Court of Justice and the administrative officer of the courts.

(10) "Medical board" shall mean the board of physicians provided for in G.S. 135-6.

(11) "Member" shall mean any person included in the membership of the Retirement System as provided in this Article.

(12) "Membership service" shall mean service as a judge, district attorney, ~~or~~ clerk of superior ~~court~~ court, or public defender rendered while a member of the Retirement System.

(13) "Previous system" shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such Article or Articles were formerly applicable to the member, and in the case of judges of the district court division, ~~and~~ district attorney, public defender, and clerk of superior court of the General Court of Justice, the Teachers' and State Employees' Retirement System.

(14) "Prior service" shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-56.

(14a) "Public defender" means a public defender provided for in G.S. 7A-498.7, the appellate defender provided for in G.S. 7A-498.8, the capital defender, and the juvenile defender.

(15) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).

(16) "Retirement" shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.

(17) "Retirement allowance" shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.

(18) "Retirement System" shall mean the "Consolidated Judicial Retirement System" of North Carolina, as established in this Article.

(19) "Year" as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees."

SECTION 28.21B.(d) G.S. 135-54 reads as rewritten:

"§ **135-54. Name and date of establishment.**

A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits

under the provisions of this Article for justices and judges, district attorneys, public defenders, and clerks of superior court of the General Court of Justice of North Carolina, and their survivors. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the "Consolidated Judicial Retirement System of North Carolina," and by such name all of its business shall be transacted."

SECTION 28.21B.(e) G.S. 135-55 reads as rewritten:

"§ **135-55. Membership.**

(a) The membership of the Retirement System shall consist of:

(1) All judges and district attorneys in office on January 1, 1974;

(2) All persons who become judges and district attorneys or reenter service as judges and district attorneys after January 1, 1974;

(3) All clerks of superior court in office on January 1, 1975; ~~and~~

(4) All persons who become clerks of superior court or reenter service as clerks of superior court after January 1, ~~1975.~~ 1975;

(5) All public defenders in office on July 1, 2007; and

(6) All persons who become public defenders or reenter service as public defenders after July 1, 2007.

(b) The membership of any person in the Retirement System shall cease upon:

(1) The withdrawal of his accumulated contributions after he is no longer a judge, district ~~attorney~~ attorney, public defender, or clerk of superior court, or

(2) His retirement under the provisions of the Retirement System, or

(3) His death."

SECTION 28.21B.(f) G.S. 135-58(a4) reads as rewritten:

"(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, but before July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 28.21B.(g) G.S. 135-58 is amended by adding a new subsection to read:

"(a5) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, clerk of superior court, or public defender;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in

G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 28.21B.(h) G.S. 135-56 is amended by adding a new subsection to read:

"(h) On and after July 1, 2007, the creditable service of a member who was a public defender and a member of the Teachers' and State Employees' Retirement System at the time of transfer of membership from the previous system to this System shall include service as a public defender that was creditable in the previous system immediately prior to July 1, 2007. The accumulated contributions, creditable service, and reserves, if any, of a member as a public defender shall be transferred from the previous system to this System in the same manner as prescribed under G.S. 135-28.1 as it pertained to judges of the district court division of the General Court of Justice."

STATE HEALTH PLAN CHANGES EFFECTIVE FOR FISCAL YEAR 2007-2008

SECTION 28.22.(a) The Teachers' and State Employees' Comprehensive Major Medical Plan (Plan) shall provide for an annual enrollment period in the Indemnity Plan and optional PPO program for the July 1, 2007, to June 30, 2008, Plan year. Plan member changes to coverage type or selection of benefit coverage under the Indemnity Plan or optional PPO program during an enrollment period shall become effective October 1, 2007. At least 45 days prior to October 1, 2007, the Plan shall provide to all Plan members sufficient information on premiums, cost-sharing, and benefits to enable the Plan member or other eligible participant to make an enrollment election effective October 1, 2007. As used in this subsection, the term "Plan member" includes active employees, retired employees, and other eligible participants with respect to the Indemnity Plan and the optional PPO program.

SECTION 28.22.(a1) G.S. 135-39.5B(b) reads as rewritten:

"(b) The Executive Administrator and Board of Trustees may, after consulting with the Committee on Employee Hospital and Medical Benefits, adopt an arrangement for an optional hospital and medical benefits program other than the one specified in subsection (a) of this section. The optional program may include one that is purchased or underwritten by the State and may be a PPO or other type optional program. Optional programs under this section are not subject to benefits and cost-sharing requirements under G.S. 135-40.1(2) and ~~G.S. 135-40.5~~ G.S. 135-40.4 through G.S. 135-40.9, except that if a pharmacy benefit is not provided under the optional program, the pharmacy benefit under G.S. 135-40.5(g) shall apply. The Executive Administrator and Board of Trustees may set premium rates for coverage under an optional program on a partially contributory basis, provided that the amounts of State funds contributed for coverage on a partially contributory basis shall not be more than the Plan's total noncontributory

premium for Employee Only coverage, with the person selecting the optional program coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed for purchased optional programs shall not exceed the amount of a purchased optional program's cost for Employee Only coverage. Contracts for an optional program under this subsection are not subject to Article 3 of Chapter 143 of the General Statutes. In no instance shall benefits be paid under Part 3 of this Article for persons enrolled in an optional prepaid hospital and medical benefits program authorized under this subsection on and after the effective date of enrollment in the optional prepaid plan, except in cases of continuous hospital confinement approved by the Executive Administrator."

SECTION 28.22.(b) G.S. 135-40.1(2) reads as rewritten:

"(2) Deductible. – Deductible shall mean an amount of covered expenses during a fiscal year which must be incurred after which benefits (subject to the deductible) becomes payable. The deductible for an employee, retired employee and/or his or her dependents shall be ~~three hundred fifty dollars ($350.00)~~four hundred fifty dollars ($450.00) for each fiscal year.

The deductible applies separately to each covered individual in each fiscal year, subject to an aggregate maximum of ~~one thousand fifty dollars ($1,050)~~one thousand three hundred fifty dollars ($1,350) per employee and child(ren) or employee and family coverage contract in any fiscal year.

If two or more family members are injured in the same accident only one deductible is required for charges related to that accident during the benefit period."

SECTION 28.22.(c) G.S. 135-40.4 reads as rewritten:

"§ **135-40.4. Benefits in general.**

(a) In the event a covered person, as a result of accidental bodily injury, disease or pregnancy, incurs covered expenses, the Plan will pay benefits up to the amounts described in G.S. 135-40.5 through G.S. 135-40.9.

The Plan is divided into two parts. The first part includes certain benefits which are not subject to a deductible or coinsurance. The second part is a comprehensive plan and includes those benefits which are subject to both a ~~three hundred fifty dollar ($350.00)~~ four hundred fifty dollar ($450.00) deductible for each covered individual to an aggregate maximum of ~~one thousand fifty dollars ($1,050)~~one thousand three hundred fifty dollars ($1,350) per employee and child(ren) or employee and family coverage contract and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the second part.

Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may contract with providers of institutional and professional medical care and services to established preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors or other medical providers, an optional program contract authorized under G.S. 135-39.5B(b), or a pharmacy benefit manager and the Plan shall not be a public record under Chapter 132 of the General Statutes for a period of thirty months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney

General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and implementation of the preferred provider ~~contracts and networks~~contracts, networks, and optional plans or programs authorized under G.S. 135-39.5B(b) are not subject to the requirements of Chapter 143 of the General Statutes, provided that for any hospital preferred provider network all hospitals will have an opportunity to contract with the Plan if they meet the contract requirements. The Executive Administrator and Board of Trustees shall, under the provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely basis and shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating the preferred provider contracts. The Executive Administrator and Board of Trustees shall implement a refined diagnostic-related grouping or diagnostic-related grouping-based reimbursement system for hospitals as soon as practicable, but no later than January 1, 1995.

(b) As used in this section the term "preferred provider contracts or networks" includes, but is not limited to, a refined diagnostic-related grouping or diagnostic-related grouping-based system of reimbursement for hospitals."

SECTION 28.22.(d) G.S. 135-40.5(g) reads as rewritten:

"(g) Prescription Drugs. – The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility are to be determined by the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars ($10.00) for each generic prescription, ~~twenty five dollars ($25.00)~~ thirty dollars ($30.00) for each preferred branded prescription, and forty dollars ($40.00) for each preferred branded prescription with a generic equivalent drug, and fifty dollars ($50.00) for each nonpreferred branded or generic prescription. These co-payments apply to the Plan's optional programs.

Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for erectile dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member. The Plan and its pharmacy benefit manager shall not provide coverage for growth hormone and weight loss drugs and antifungal drugs for the treatment of nail fungus and botulinium toxin without approval in advance by the pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator and pharmacy benefit manager shall be an open formulary. Plan members shall not be

assessed more than two thousand five hundred dollars ($2,500) per person per fiscal year in copayments required by this subsection."

SECTION 28.22.(e) The first paragraph of G.S. 135-40.6 reads as rewritten:

"The benefits provided in this section are subject to a deductible of ~~three hundred fifty dollars ($350.00)~~ four hundred fifty dollars ($450.00) per covered individual to an aggregate maximum of ~~one thousand fifty dollars ($1,050)~~ one thousand three hundred fifty dollars ($1,350) per employee and child(ren) or employee and family coverage contract per fiscal year and are payable on the basis of eighty percent (80%) by the Plan and twenty percent (20%) by the covered individual up to a maximum of two thousand dollars ($2,000) out-of-pocket per fiscal year. The aggregate maximum out-of-pocket required of individuals covered by this section shall not be more than six thousand dollars ($6,000) per employee and child(ren) or employee and family coverage contract per fiscal year."

SECTION 28.22.(f) G.S. 135-40.7B is amended by adding the following new subsection to read:

"(f) For purposes of this section, the word "Plan" includes all optional programs or plans in effect under the Teachers' and State Employees' Comprehensive Major Medical Plan and its successor Plans."

SECTION 28.22.(g) G.S. 135-40.8(c3) reads as rewritten:

"(c3) Notwithstanding any other provision of this Article, the Plan does not pay for the first ~~fifteen dollars ($15.00)~~ twenty-five dollars ($25.00) of allowable charges for each home, office, or skilled nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b., G.S. 135-40.6(4), G.S. 135-40.6(8)i., j., k., n., r., and s., and G.S. 135-40.5(e). The co-payment assessed by this subsection shall be assessed only once per person per provider per day and shall not apply to laboratory, pathology, and radiology services, or to charges for injected medications. The exclusion made under this subsection shall not count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs."

SECTION 28.22.(h) G.S. 135-39.5B is amended by adding the following new subsections to read:

"§ **135-39.5B. Optional plans.**

…

(c) Chemical dependency and mental health benefits under G.S. 135-40.7B apply to the optional program adopted under subsection (b) of this section.

(d) Optional programs adopted under subsection (b) of this section shall not limit the number of visits for covered services for physical therapy, occupational therapy, and speech therapy."

SECTION 28.22.(i) G.S. 135-39.5 is amended by adding the following new subdivision to read:

"(28) It is the intent of the General Assembly that active employees and retired employees covered under the Plan and its successor Plan shall have several opportunities in each fiscal year to attend presentations conducted by Plan management staff providing detailed information about benefits, limitations, premiums, co-payments, and other pertinent Plan matters. To this end, beginning in 2007 and annually thereafter, the Plan's management staff shall conduct multiple presentations each year to Plan members and association groups representing active and retired employees across all geographic regions of the State. Regional meetings shall be held in locations that

afford reasonably convenient access to Plan members. The presentations shall be designed not only to present information about the Plan but also to hear and respond to Plan members' questions and concerns."

SECTION 28.22.(j) To ensure a smooth and effective transition of the administration of the NC Health Choice Program, enacted under Part 8 of Article 2 of Chapter 108A of the General Statutes, and administered under Part 5 of Article 3 of Chapter 135 of the General Statutes, the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan and the Department of Health and Human Services, Division of Medical Assistance, shall meet to discuss the administration of NC Health Choice in view of the implementation of the State Health Plan for Teachers and State Employees effective July 1, 2008. These meetings shall address all issues that may arise regarding the administration of NC Health Choice under the State Health Plan, including provider payment rates and collection of applicable premiums and co-payments. The Executive Administrator and the Department shall report to the Committee on Employee Hospital and Medical Benefits not later than February 1, 2008, with recommendations on statutory or other changes necessary to ensure effective administration of NC Health Choice.

SECTION 28.22.(k) The Committee on Employee Hospital and Medical Benefits, established under G.S. 135-38, shall convene one or more meetings to review current law as it applies to the Teachers' and State Employees' Comprehensive Major Medical Plan (Indemnity Plan) and to the State Health Plan for Teachers and State Employees (PPO and optional programs). The purpose of the review is to determine changes that need to be made to Article 3 of Chapter 135 of the General Statutes in order to smoothly and effectively transition health care coverage from the Indemnity Plan to the PPO and all optional plans or programs offered under the PPO. Not later than May 1, 2008, the Committee shall report its recommendations to the 2007 General Assembly, Regular Session 2008, and shall at that time provide copies of the report and recommendations to the cochairs of the House of Representatives Committee on Appropriations and the cochairs of the Senate Committee on Appropriations.

STATE HEALTH PLAN CHANGES EFFECTIVE BEGINNING WITH THE 2008-2009 FISCAL YEAR

SECTION 28.22A.(a) Effective July 1, 2008, G.S. 135-39.5B, 135-40.4, 135-40.5(e), 135-40.6, 135-40.8, and 135-40.9 are repealed.

SECTION 28.22A.(b) Effective July 1, 2008, G.S. 135-39(a) and (a1) read as rewritten:

"(a) There is hereby established the Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~State Health Plan for Teachers and State Employees.

(a1) The Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan~~ State Health Plan for Teachers and State Employees shall consist of nine members."

SECTION 28.22A.(c) Effective July 1, 2008, G.S. 135-37 reads as rewritten:

"§ **135-37. ~~Confidentiality.~~Confidentiality of information and medical records; provider contracts.**

(a) Any information as herein described in this section which is in the possession of the Executive Administrator and the Board of Trustees of the ~~Teachers' and State~~

~~Employees' Comprehensive Major Medical Plan~~ State Health Plan for Teachers and State Employees or its Claims Processor under the ~~Teachers' and State Employees' Comprehensive Major Medical Plan~~ Plan or the Predecessor Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. This section shall apply to all information concerning individuals, including the fact of coverage or noncoverage, whether or not a claim has been filed, medical information, whether or not a claim has been paid, and any other information or materials concerning a plan participant. Provided, however, such information may be released to the State Auditor, or to the Attorney General, or to the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and responsibilities, or to such persons or organizations as may be designated and approved by the Executive Administrator and Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan,~~ Plan, but any information so released shall remain confidential as stated above and any party obtaining such information shall assume the same level of responsibility for maintaining such confidentiality as that of the Executive Administrator and Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~State Health Plan for Teachers and State Employees.

(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may contract with providers of institutional and professional medical care and services to establish preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors, or other medical providers, or a pharmacy benefit manager and the Plan, or contracts pertaining to the provision of any medical benefit offered under the Plan, including its optional plans or programs, shall not be a public record under Chapter 132 of the General Statutes for a period of 30 months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and implementation of the preferred provider contracts, networks, and optional plans or programs as authorized under G.S. 135-40 are not subject to the requirements of Chapter 143 of the General Statutes. The Executive Administrator and Board of Trustees shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating the preferred provider contracts."

SECTION 28.22A.(d) Effective July 1, 2008, G.S. 135-39.10 reads as rewritten:

"§ **135-39.10. Meaning of "Executive Administrator and Board of Trustees".**

Whenever in this Article the words "Executive Administrator and Board of Trustees" appear, they mean that the Executive Administrator shall have the power, duty, right, responsibility, privilege or other function mentioned, after consulting with the Board of Trustees of the ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~State Health Plan for Teachers and State Employees."

SECTION 28.22A.(e) Effective July 1, 2008, the title of Part 3 of Article 3 of Chapter 135 of the General Statutes reads as rewritten:

"Part 3. ~~Comprehensive Major Medical Plan.~~State Health Plan for Teachers and State Employees."

SECTION 28.22A.(f) Effective July 1, 2008, G.S. 135-40(a) and (a1) read as rewritten:

"§ **135-40. Undertaking.**

(a) The State of North Carolina undertakes to make available a ~~Comprehensive Major Medical~~State Health Plan (hereinafter called the "Plan") exclusively for the benefit of its employees, retired employees and certain of their dependents which will pay benefits in accordance with the terms hereof. The Plan shall have all the powers and privileges of a corporation and shall be known as the ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~ State Health Plan for Teachers and State Employees. The Executive Administrator and Board of Trustees shall carry out their duties and responsibilities as fiduciaries for the Plan. The Plan shall be a comprehensive benefit plan that includes noncontributory coverage and may be an optional PPO or other type optional benefit plan. Chemical dependency and mental health benefits under G.S. 135-40.7B apply to the Plan and all optional benefit plans offered under an optional PPO or other type of optional benefit plan.

(a1) The State of North Carolina deems it to be in the public interest for North Carolina firemen, rescue squad workers, and members of the national guard, and certain of their dependents, who are not eligible for any other type of comprehensive group health insurance or other comprehensive group health benefits, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months, to be given the opportunity to participate in the benefits provided by the ~~North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.~~State Health Plan for Teachers and State Employees. Coverage under the Plan shall be voluntary for eligible firemen, rescue squad workers, and members of the national guard who elect participation in the Plan for themselves and their eligible dependents."

SECTION 28.22A.(g) Effective July 1, 2008, subdivisions (8), (13a), and (14) of G.S. 135-40.1 read as rewritten:

"§ **135-40.1. General definitions.**

As used in Parts 2 and 3 of this Article, the following terms have the meaning specified as follows:

…

(8) Health Benefits Representative. – The employee designated by the employing unit to administer the ~~Comprehensive Major Medical Plan~~ State Health Plan for Teachers and State Employees for the unit and its employees. The HBR is responsible for enrolling new employees, reporting changes, explaining benefits, reconciling group statements and remitting group fees. The State Retirement System is the Health Benefits Representative for retired members.

…

(13a) Plan. – The ~~Teachers' and State Employees' Comprehensive Major Medical Plan.~~ State Health Plan for Teachers and State Employees.

(14) Predecessor Plan. – The Hospital and Medical Benefits for the Teachers' and State Employees' Retirement System of the State of

North ~~Carolina.~~ Carolina, or the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, as applicable."

SECTION 28.22A.(g1) Effective July 1, 2008, G.S. 135-40.2 is amended by adding the following new subsection to read:

"(a4) The Executive Administrator and Board of Trustees may in addition to noncontributory coverage offer optional coverage on a partially contributory basis and may set premium rates for the optional coverage on a partially contributory basis. The amount of State funds contributed for optional coverage on a partially contributory basis shall not be more than the Plan's total noncontributory premium for Employee Only coverage, with the person selecting the coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed shall not exceed the Plan's cost for Employee Only coverage. The Executive Administrator and Board of Trustees shall not impose a partially contributory premium until after it has consulted on the premium and the optional coverage design with the Committee on Employee Hospital and Medical Benefits."

SECTION 28.22A.(h) Effective July 1, 2008, G.S. 135-40.3(d) reads as rewritten:

"(d) Types of Coverage Available. – There are three types of coverage which an employee or retiree may elect.

(1) Employee Only. – Covers enrolled employees only. Maternity benefits are provided to employee only.

(2) Employee and Child(ren). – Covers enrolled employee and all eligible dependent children. Maternity benefits are provided to the employee only.

(3) Employee and Family. – Covers employee and spouse, and all eligible dependent children. Maternity benefits are provided to employee or enrolled spouse.

(4), (5) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 5(b).

(4a) Employee and spouse. – Covers employee and spouse only. Maternity benefits are provided to the employee or the employee's enrolled spouse."

SECTION 28.22A.(i) Effective July 1, 2008, G.S. 135-42(a) reads as rewritten:

"(a) The State of North Carolina undertakes to make available a health insurance program for children (hereinafter called the "Program") to provide comprehensive acute medical care to low-income, uninsured children who are residents of this State and who meet the eligibility requirements established for the Program under Part 8 of Article 2 of Chapter 108A of the General Statutes. The Executive Administrator and Board of Trustees of the ~~North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan (hereinafter called the "Plan")~~State Health Plan for Teachers and State Employees shall administer the Program under this Part and shall carry out their duties and responsibilities in accordance with Parts 2 and 3 of this Article and with applicable provisions of Part 8 of Article 2 of Chapter 108A. The ~~Plan's self-insured indemnity program~~ Plan shall not incur any financial obligations for the Program in excess of the amount of funds that the ~~Plan's self-insured indemnity program~~Plan receives for the Program."

SECTION 28.22A.(j) Effective July 1, 2008, G.S. 135-40.7 is amended by designating the first paragraph as subsection (b) and inserting before subsection (b) the following new subsection to read:

"(a) The Plan and optional plans or programs shall not limit the number of visits for covered services for physical therapy, occupational therapy, and speech therapy."

SECTION 28.22A.(k) Subsection (j) of this section expires June 30, 2009.

SECTION 28.22A.(l) G.S. 135-39.4A(f) reads as rewritten:

"(f) The Executive Administrator shall appoint the Deputy Executive Administrator and may employ such clerical and professional staff, and such other assistance as may be necessary to assist the Executive Administrator and the Board of Trustees in carrying out their duties and responsibilities under this Article. The Executive Administrator may designate managerial, professional, or policy-making positions as exempt from the State Personnel Act. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of his duties and responsibilities under this Article; provided any contract negotiations, renegotiations and execution with a Claims Processor, with an optional hospital and medical benefit plan or ~~program authorized under G.S. 135-39.5B,~~ program authorized under G.S. 135-40, with a preferred provider of institutional or professional hospital and medical care, or with a pharmacy benefit manager shall be done only after consultation with the Committee on Employee Hospital and Medical Benefits."

SECTION 28.22A.(m) G.S. 135-39.6A(c) reads as rewritten:

"(c) The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under Part 5 of this Article. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the ~~North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan~~Plan as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care for children eligible for benefits provided under Part 5 of this Article."

SECTION 28.22A.(n) If on July 1, 2008, there are State employees or retired employees that are enrolled in the Teachers' and State Employees' Comprehensive Major Medical Plan (indemnity plan) on June 30, 2008, and that have not elected one of the optional PPO benefit plans available under the State Health Plan for Teachers and State Employees, then the Plan shall enroll those employees or retired employees in the Standard PPO Option, or its equivalent, effective July 1, 2008.

SECTION 28.22A.(o) Effective July 1, 2008, the Revisor of Statutes shall delete all statutory references to "Teachers' and State Employees' Comprehensive Major Medical Plan" and substitute therefore "State Health Plan for Teachers and State Employees."

STATE HEALTH PLAN WELLNESS PILOT

SECTION 28.22B.(a) The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may use funds available in an amount not to exceed two hundred thousand dollars ($200,000) for the 2007-2008 fiscal year to establish and implement one or more wellness pilot programs for State employees. The purpose of the pilot programs is to reduce health care costs and improve worker productivity through improved health status of the employee. The pilot programs shall be designed to encourage State employee

enrollment in a structured fitness program that includes measurable benchmarks. The Executive Administrator shall select one or more pilot sites that represent different geographic regions of the State, taking into consideration sites that have the highest density of State employees.

SECTION 28.22B.(b) Not later than May 1, 2008, the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan shall report to the Committee on Employee Hospital and Medical Benefits on State employee participation levels in the wellness pilot programs and health outcomes resulting from the participation. The Executive Administrator shall also recommend in its report whether the pilot programs should be continued and expanded in other areas of the State in the 2008-2009 fiscal year.

RETIREE HEALTH BENEFIT FUND

SECTION 28.23. G.S. 135-7(f) reads as rewritten:

"(f) Retiree Health Benefit Fund. – The Retiree Health Benefit Fund is established as a fund in which accumulated contributions from employers and any earnings on those contributions shall be used to provide health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter. The Retiree Health Benefit Fund shall be administered in accordance with the provisions of subsection (a) of this section. Employer contributions to the Fund are irrevocable. The assets of the Fund are dedicated to providing health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter and are not subject to the claims of creditors of the employers making contributions to the Fund. However, Fund assets may be used for reasonable expenses to administer the Fund, including costs to conduct required actuarial valuations of State-supported retired employees' health benefits under other post-employment benefit accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation."

PART XXIX. CAPITAL APPROPRIATIONS.

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 29.1. The appropriations made by the 2007 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 29.2 There is appropriated from the General Fund for the 2007-2008 fiscal year the following amount for capital improvements:

Capital Improvements – General Fund	**2007-2008**
Department of Administration	
Deerfield Cottage Renovation	3,556,000
State Capital Visitors Center / Public Plaza / Underground Parking Facility Planning Funds	627,281
Department of Cultural Resources	
NC Museum of History Chronology Exhibit – Phase I	6,322,900

Horne Creek Farm – Visitors Center	442,100
Information Technology Services	
Secondary Data Center Equipment	8,000,000
Department of Correction	
North Carolina Correctional Institution for Women – Health Care Facility Planning and Site Development Funds	5,000,000
Capital Planning Reserve for Prison Additions	3,497,557
Department of Crime Control and Public Safety	
Statewide Department Master Plan – Phase I	280,294
Camp Butner Land Buffers	117,800
Department of Justice	
Western Justice Academy Firing Range	1,974,103
Department of Juvenile Justice and Delinquency Prevention	
Dillon Youth Development Center –Maintenance Building	375,000
Five New Youth Development Centers Planning Funds	1,500,000
Department of Agriculture and Consumer Services	
Western Agricultural Center Facilities	5,000,000
Eastern Agricultural Center Facilities	3,000,000
Food and Drug Laboratory Chillers	690,865
Department of Commerce	
NC Ports Improvements	7,500,000
Department of Natural and Environmental Resources	
Green Square Project	25,000,000
Division of Water Quality Modular Office	252,200
NC Zoo Horticulture Storage Facility	450,000
NC Zoo Plains Barns and Paddocks	3,006,000
Division of Forestry Resources Ashe County Headquarters	708,000
Division of Forestry Resources Buncombe County Headquarters	292,000
Water Resources Development Projects	20,000,000
University of North Carolina System	
East Carolina University – School of Dentistry Facilities	25,000,000
Elizabeth City State University	
Education Building Planning Funds	2,000,000
School of Aviation Planning Funds	500,000
North Carolina Agricultural and Technical University – General Classroom Planning and Site Development Funds	5,300,000
North Carolina Central University – Nursing Building Planning Funds	2,500,000

North Carolina School of Science and Mathematics – Discovery Center Planning Funds	3,337,000
North Carolina State University – Centennial Campus Library Planning and Utility Construction Funds	17,000,000
University of North Carolina at Chapel Hill	
School of Dentistry Addition	25,000,000
Biomedical Research Imaging Center Planning Funds	8,000,000
University of North Carolina at Charlotte – Energy Production Infrastructure Center Planning and Site Development Funds	19,000,000
University of North Carolina at Greensboro – Education Building Planning Funds	2,500,000
Winston-Salem State University – Science and General Office Building Planning Funds	3,312,000
Improvements to 4-H Campuses	7,500,000
University of North Carolina Reserve for Land Acquisition	5,000,000
Millennium Campus – Nanoscience and Nanoengineering Building	5,000,000
Western Carolina University – Health and Gerontology Building	2,200,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	**$230,741,100**

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 29.3.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

	Name of Project	**2007-2008**
(1)	Wilmington Harbor Deepening	$ 4,333,000
(2)	Manteo (Shallowbag) Bay	350,000
(3)	Wilmington Harbor Maintenance	2,000,000
(4)	Bogue Banks Shore Protection Study	125,000
(5)	B. Everett Jordan Lake Water Supply Storage	100,000
(6)	Princeville Flood Control	98,000
(7)	Aquatic Plant Control, Statewide and Lake Gaston	200,000
(8)	Belhaven Harbor Feasibility	120,000
(9)	John H. Kerr Dam & Reservoir	520,000
(10)	Currituck Sound Environmental Restoration Study	350,000
(11)	Neuse River Basin Study	554,000
(12)	Surf City/North Topsail Beach Study	50,000

(13)	West Onslow Beach (Topsail Beach) Study	43,000
(14)	Dare County Beaches (Bodie Island)	500,000
(15)	North Carolina Beach and Inlet Management Plan	250,000
(16)	Dredging Contingency Fund	3,937,000
(17)	State – Local Projects	2,400,000
(18)	Black River Restoration – Pender County	100,000
(19)	Western N.C. Hurricane Damage Stream Restoration	1,200,000
(20)	Planning Assistance to Communities	75,000
(21)	Concord Stream Restoration – Cabarrus County	170,000
(22)	Southern Shores Canal Dredging Phase 2	800,000
(23)	Ararat River Restoration	550,000
(24)	Town of Williamston Drainage Improvement	600,000
(25)	Little Sugar Creek Stream Restoration Phase 7	575,000
TOTALS		**$20,000,000**

SECTION 29.3.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2007-2008 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) U.S. Army Corps of Engineers project feasibility studies.
(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2007-2008.
(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2008-2009 fiscal year.

SECTION 29.3.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 29.4. The appropriations made by the 2007 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act,

Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2007 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2007 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 29.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2007-2008 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

SECTION 29.5.(b) The Office of State Budget and Management and the University of North Carolina General Administration shall jointly study the allocation of funds in the Reserve for Repairs and Renovations set forth in subsection (a) of this section and shall recommend to the General Assembly changes to the current allocation if any are deemed necessary. The study shall include the following:

(1) A review of the Department of Administration's Facilities Condition and Assessment Program.

(2) A review and identification of State-owned buildings supported by the General Fund.

(3) A review of the actual expenditures for repairs and renovations from allocated reserve funds.

The Office of State Budget and Management and the University of North Carolina General Administration shall submit a joint report to the Senate Appropriations and Base Budget Committee, the House Appropriations Committee, the House Appropriations Subcommittee on Capital, the Senate Finance Subcommittee on Capital and Infrastructure Financing, the Joint Legislative Oversight Committee on Capital Improvements, and the Fiscal Research Division. The report shall include the study findings and recommendations and shall be submitted no later than April 1, 2008.

SECTION 29.5.(c) Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section, the sum of three million nine hundred twenty-one thousand one hundred dollars ($3,921,100) shall be used for repairs and renovations of facilities located on the grounds of the Palmer Memorial Institute State Historic Site.

SECTION 29.5.(d) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in University residence halls. Such funds shall be allocated among the University's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

(1) The safety and well-being of the residents of campus housing programs.

(2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.

(3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.

(4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.

(5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports shall also include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

PLANT CONSERVATION PROGRAM FUNDS

SECTION 29.6.(a) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars ($30,000) for the 2007-2008 fiscal year shall be transferred to the Department of

Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, environmental studies, and for the management of the plant conservation program preserves owned by the Department.

SECTION 29.6.(b) Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

STATE FAIRGROUNDS IMPROVEMENT FUNDS

SECTION 29.7.(a) From funds received from the sale of utility easements on property allocated to the Department of Agriculture and Consumer Services in the vicinity of the State Fairgrounds in Raleigh that are deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of nine hundred seventy-five thousand dollars ($975,000) for the 2007-2008 fiscal year shall be transferred to the Department to be used for planning and capital improvements to property at the State Fairgrounds.

SECTION 29.7.(b) Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

EASTERN NORTH CAROLINA AGRICULTURAL CENTER FUNDS

SECTION 29.8.(a) Timber sales receipts received for the sale of timber harvested on the property on which the Eastern North Carolina Agricultural Center at Williamston is located shall be transferred from the Department of Agriculture and Consumer Services' timber sales capital improvement account in the Department of Agriculture and Consumer Services as such funds become available and shall be used for the 2007-2008 fiscal year by the Department for capital improvements to the grounds and facilities at the Eastern North Carolina Agricultural Center.

SECTION 29.8.(b) Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

TIME WARNER CABLE LEASE PROCEEDS

SECTION 29.9.(a) The sum of two hundred twenty-five thousand dollars ($225,000) in net proceeds received from Time Warner, Inc., by the Department of Environment and Natural Resources, Division of Forest Resources, for the lease of property located at 2600 Howard Road in Raleigh shall be transferred to the Department for deposit into a capital improvement account. Funds in this account for the 2007-2008 fiscal year may be used to construct an equipment storage building and related improvements.

SECTION 29.9.(b) Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

TRANSFER OF STATE PROPERTY TO WAYNE COUNTY

SECTION 29.11. The State-owned property in Wayne County that is bordered on the north by SR 581, on the west by the DART-Cherry Facility/Programs, on the south by Cherry Hospital Cemetery, and on the west by property owned by APV North America, Inc., is hereby transferred to Wayne County. The transfer under this section shall be evidenced by a deed executed in accordance with G.S. 146-75 and registered in accordance with G.S. 146-77. The deed shall provide that the State retains

a possibility of reverter and that, in the event that Wayne County does not substantially commence construction of a community agricultural center on the site within five years of the execution of the deed, the property shall revert to the State.

DISPOSITION OF PROCEEDS FROM SALE OF FORMER BUNCOMBE COUNTY HEADQUARTERS PARCEL

SECTION 29.11A.(a) All proceeds from the pending sale of the former Buncombe County Headquarters parcel, located at 5 Brown Road, Asheville, North Carolina, by the Department of Environment and Natural Resources, Division of Forest Resources, shall be transferred to the Department for deposit into a capital improvement account. These proceeds shall be used to construct an office, equipment storage building, and other improvements related to a new Buncombe County Headquarters facility. These proceeds shall not be subject to the service charge payable to the State Land Fund pursuant to G.S. 146-30.

SECTION 29.11A.(b) Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

SPECIAL INDEBTEDNESS PROJECTS

SECTION 29.13.(a) The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the projects described in this subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness:

(1) In the maximum aggregate principal amount of thirty-four million dollars ($34,000,000) to finance the capital facility costs of completing a new educational building at Appalachian State University. No more than a maximum aggregate amount of three million dollars ($3,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(2) In the maximum aggregate principal amount of twenty-two million five hundred eighty-seven thousand dollars ($22,587,000) to finance the capital facility costs of completing a new Science and Technology Complex at Fayetteville State University. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(3) In the maximum aggregate principal amount of twenty-four million nine hundred twenty thousand dollars ($24,920,000) to finance the capital facility costs of completing a new library at the North Carolina School of the Arts. No more than a maximum aggregate amount of one million seven hundred seventy-five thousand six hundred dollars ($1,775,600) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of fourteen million three hundred seventy-three thousand six hundred dollars ($14,373,600) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(4) In the maximum aggregate principal amount of thirty-eight million dollars ($38,000,000) to finance the capital facility costs of completing the Randall B. Terry Companion Animal Hospital at North Carolina State University. No more than a maximum aggregate amount of twenty-eight million five hundred thousand dollars ($28,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(5) In the maximum aggregate principal amount of thirty-four million dollars ($34,000,000) to finance the capital facility costs of completing an addition to Engineering Building III in the School of Engineering at North Carolina State University. No more than a maximum aggregate amount of eight million five hundred thousand dollars ($8,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of twenty-five million five hundred thousand dollars ($25,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(6) In the maximum aggregate principal amount of eight million six hundred eighty-seven thousand dollars ($8,687,000) to finance the capital facility costs of renovating Rhoades Hall at the University of North Carolina at Asheville.

(7) In the maximum aggregate principal amount of one hundred nineteen million six hundred eight thousand two hundred twenty-five dollars ($119,608,225) to finance the capital facility costs of a Genomics Science Building at the University of North Carolina at Chapel Hill. No more than a maximum aggregate amount of thirty-one million dollars ($31,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of eighty-six million dollars ($86,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(8) In the maximum aggregate principal amount of nineteen million dollars ($19,000,000) to finance the capital facility costs of completing a Nursing and Allied Health Building at the University of North Carolina at Pembroke. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(9) In the maximum aggregate principal amount of thirty-four million five hundred twenty-five thousand dollars ($34,525,000) to finance the capital facility costs of completing a new teaching laboratory at the University of North Carolina at Wilmington. No more than a maximum aggregate amount of two million five hundred thousand dollars ($2,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of eight million six hundred thirty-one thousand two hundred fifty dollars ($8,631,250) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(10) In the maximum aggregate principal amount of forty-one million six hundred five thousand dollars ($41,605,000) to finance the capital

facility costs of completing a new Health and Gerontological Building at Western Carolina University. No more than a maximum aggregate amount of eighteen million eight hundred two thousand five hundred dollars ($18,802,500) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(11) In the maximum aggregate principal amount of eighteen million seven hundred eight thousand dollars ($18,708,000) to finance the capital facility costs of completing a new student activities center at Winston-Salem State University. No more than a maximum aggregate amount of two million dollars ($2,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(12) In the maximum aggregate principal amount of fifty-three million dollars ($53,000,000) to finance the capital facility costs of completing a Nanoscience Building to be used jointly by the University of North Carolina at Greensboro and North Carolina Agricultural and Technical State University. No more than a maximum aggregate amount of twenty-five million dollars ($25,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(13) In the maximum aggregate principal amount of thirty-two million five hundred thousand dollars ($32,500,000) to finance the capital facility costs for completing the Coastal Studies Institute. No more than a maximum aggregate amount of eight million dollars ($8,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of twenty-three million dollars ($23,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(14) In the maximum aggregate principal amount of nineteen million eight hundred sixteen thousand five hundred dollars ($19,816,500) to finance the capital facility costs of a medium security facility at the Scotland Correctional Institution. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(15) In the maximum aggregate principal amount of thirteen million one hundred ninety-one thousand three hundred dollars ($13,191,300) to finance the capital facility costs of a minimum security facility at the Alexander Correctional Institution. No more than a maximum aggregate amount of six million five hundred ninety-five thousand six hundred fifty dollars ($6,595,650) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(16) In the maximum aggregate principal amount of thirty-five million dollars ($35,000,000) to finance the capital facility costs of a new education and visitors center at Tryon Palace Historic Sites and Gardens. No more than a maximum aggregate amount of five million dollars ($5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of twenty-five million dollars ($25,000,000) of

special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

SECTION 29.13.(b) This section is effective when it becomes law.

LAND FOR TOMORROW AND WATERFRONT ACCESS AND MARINE INDUSTRY FUND

SECTION 29.14.(a) Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount of one hundred twenty million dollars ($120,000,000) to be used as provided in this section to finance the cost of land acquisitions, waterfront properties, and the development of facilities for the purposes of providing and improving public and commercial waterfront access. Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 29.14.(b) Maximum Amount. – Of the special indebtedness authorized by this section, no more than the applicable maximum principal amount listed in this subsection may be issued for each stated purpose:

(1) State Park Land Acquisition. – A maximum amount of fifty million dollars ($50,000,000) to be used to finance the cost of land acquisitions for the expansion of the State Park System and Mountains to Sea Trail.

(2) Natural Heritage Land Acquisition. – A maximum amount of fifty million dollars ($50,000,000) to be used to finance the cost of land acquisitions to conserve ecological diversity of the State pursuant to G.S. 113-77.9.

(3) Waterfront Access and Marine Industry Fund. – A maximum of twenty million dollars ($20,000,000) to be used to acquire waterfront properties or develop facilities for the purposes of providing public and commercial waterfront access and improving and developing the same.

SECTION 29.14.(c) State Park Land Acquisition. – The specific land acquisitions for which the special indebtedness for State Park Land Acquisition may be used are to be identified by the North Carolina Parks and Recreation Authority for the purpose of expanding the State Park System and Mountains to Sea Trail pursuant to G.S. 113-44.15, notwithstanding subsection (b) of that section. Land acquisitions shall support the conservation priorities set out by the One North Carolina Naturally Program.

SECTION 29.14.(d) Natural Heritage Land Acquisition. – The specific land acquisitions for which the special indebtedness for Natural Heritage Land Acquisition may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9. Land acquisitions shall represent the ecological diversity of the State and support the conservation priorities set out by the One North Carolina Naturally Program.

SECTION 29.14.(e) Waterfront Access and Marine Industry Fund. – The Director of the Division of Marine Fisheries shall establish a program by which the special indebtedness for Waterfront Access and the Marine Industry Fund may be used. The Director may consult with representatives of the commercial fishing industry and other marine industries and with State, local, or nonprofit agencies that have expertise in waterfront access issues and property acquisitions. The Director may establish a

committee to review potential property acquisitions and capital and infrastructure improvements.

Prior to the expenditure of any funds, the Division shall report to the Joint Legislative Committee on Seafood and Aquaculture. The Division also shall report to the Joint Legislative Committee on Seafood and Aquaculture on the use of these funds on a quarterly basis until the funding expires.

SECTION 29.14.(f) G.S. 113-44.15(d) reads as rewritten:

"(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this ~~section.~~ section and for waterfront access. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

SECTION 29.14.(g) G.S. 113-77.9(b3) reads as rewritten:

"(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to ~~fifty percent (50%)~~ sixty percent (60%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART XXX. FEES

EROSION AND SEDIMENTATION CONTROL PLAN FEE INCREASE

SECTION 30.1.(a) G.S. 113A-54.2(a) reads as rewritten:

"(a) ~~The Commission may establish a fee schedule for the review and approval of erosion and sedimentation control plans under this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for reviewing the plans and for related compliance activities.~~ An application fee ~~may not exceed fifty dollars ($50.00)~~ of sixty-five dollars ($65.00) per acre of disturbed land shown on an erosion and sedimentation control plan or of land actually disturbed during the life of the ~~project.~~project shall be charged for the review of an erosion and sedimentation control plan under this Article."

SECTION 30.1.(b) This section becomes effective August 1, 2007, and applies to applications submitted on or after that date.

MINING PERMIT APPLICATION FEES

SECTION 30.2.(a) G.S. 74-54.1 reads as rewritten:

"§ **74-54.1. Permit fees.**

(a) ~~The Commission may establish a~~ The fee schedule for the processing of permit applications and permit renewals and ~~modifications.~~ modifications is as follows:

	0-25 acres	26+ acres
New Permit Applications	$3,750.00	$5,000.00
Permit Modifications	$750.00	$1,000.00
Permit Renewals	$750.00	$1,000.00
Transfers	$100.00	$100.00

~~The fees may vary on the basis of the acreage, size, and nature of the proposed or permitted operations or modifications. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance activities and safeguards to prevent unusual fee assessments that would impose a serious economic burden on an individual applicant or a class of applicants.~~

(b) ~~The total amount of permit fees collected for any fiscal year may not exceed one-third of the total personnel and administrative costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance costs in the prior fiscal year. A fee for an application for a new permit may not exceed two thousand five hundred dollars ($2,500), and a fee for an application to renew or modify a permit may not exceed five hundred dollars ($500.00).~~ The Mining Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Mining Account and shall be applied to the costs of administering this Article.

(c) The Department shall annually report on or before 1 September to the Environmental Review ~~Commission~~ Commission, the Fiscal Research Division, and the Mining Commission on the cost of implementing this Article. The report shall include the fees established, collected, and disbursed under this section and any other information requested by the General Assembly or the Commission."

SECTION 30.2.(b) This section becomes effective August 1, 2007, and applies to applications submitted on or after that date.

WATER QUALITY PERMIT FEES

SECTION 30.3.(a) G.S. 143-215.3D reads as rewritten:

"§ **143-215.3D. Fee schedule for water quality permits.**

(a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

(1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential ~~shall be two~~

~~thousand eight hundred sixty-five dollars ($2,865).~~is three thousand four hundred forty dollars ($3,440).

(2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies ~~shall be seven hundred fifteen dollars ($715.00).~~is eight hundred sixty dollars ($860.00).

(3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence ~~shall be fifty dollars ($50.00).~~is sixty dollars ($60.00).

(4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of stormwater or wastewater ~~shall be eighty dollars ($80.00).~~is one hundred dollars ($100.00).

(5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit ~~shall be three hundred dollars ($300.00).~~is three hundred sixty dollars ($360.00).

(6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land ~~shall be one thousand ninety dollars ($1,090).~~is one thousand three hundred ten dollars ($1,310).

(7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land ~~shall be six hundred seventy-five dollars ($675.00).~~is eight hundred ten dollars ($810.00).

(8) Animal Waste Management Systems. – The annual fee for animal waste management systems ~~shall be~~is as set out in G.S. 143-215.10G.

(b) Application fee for new discharge and nondischarge permits. – An application for a new permit of the type set out in subsection (a) of this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee ~~will~~ shall be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Application and annual fees for consent special orders. –

(1) Major Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (1) or (6) of subsection (a) of this section, the initial project fee ~~shall be~~is four hundred dollars ($400.00) and the annual fee ~~shall be~~ is five hundred dollars ($500.00). These fees ~~shall be~~are in addition to the annual fee due under subsection (a) of this section.

(2) Minor Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (2) or (7) of subsection (a) of this section, the initial project fee ~~shall be~~is four hundred dollars ($400.00) and the annual fee ~~shall be~~is two hundred fifty dollars ($250.00). These fees

~~shall be~~are in addition to the annual fee due under subsection (a) of this section.

(d) Fee for major permit modifications. – An application for a major modification of a permit of the type set out in subsection (a) of this section shall be accompanied by an application fee equal to thirty percent (30%) of the annual fee applicable to that permit. A major modification of a permit is any modification that would allow an increase in the volume or pollutant load of the discharge or nondischarge or that would result in a significant relocation of the point of discharge, as determined by the Commission. This fee ~~shall be~~is in addition to the fees due under subsections (a) and (c) of this section. If the application is denied, the application fee shall not be refunded.

(e) Other fees under this Article. –

(1) Sewer System Extension Permits. – The application fee for a permit for the construction of a new sewer system or for the extension of an existing sewer system ~~shall be four hundred dollars ($400.00).~~is four hundred eighty dollars ($480.00).

(2) State Stormwater Permits. – The application fee for a permit regulating stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 ~~shall be four hundred twenty dollars ($420.00).~~is five hundred five dollars ($505.00).

(3) Major Water Quality Certifications. – The fee for a water quality certification involving one acre or more of wetland fill or 150 feet or more of stream impact ~~shall be four hundred seventy-five dollars ($475.00).~~is five hundred seventy dollars ($570.00).

(4) Minor Water Quality Certifications. – The fee for a water quality certification involving less than one acre of wetland fill or less than 150 feet of stream impact ~~shall be two hundred dollars ($200.00).~~is two hundred forty dollars ($240.00).

(5) Permit for Land Application of Petroleum Contaminated Soils. – The fee for a permit to apply petroleum contaminated soil to land ~~shall be four hundred dollars ($400.00).~~is four hundred eighty dollars ($480.00).

(6) Fee Nonrefundable. – If an application for a permit or a certification described in this subsection is denied, the application or certification fee shall not be refunded.

(7) Limit Water Quality Certification Fee Required for CAMA Permit. – An applicant for a permit under Article 7 of Chapter 113A of the General Statutes for which a water quality certification is required shall pay a fee established by the Secretary. The Secretary shall not establish a fee that exceeds the greater of the fee for a permit under Article 7 of Chapter 113A of the General Statutes or the fee for a water quality certification under subdivision (3) or (4) of this subsection.

(f) Local Government Fee Authority Not Impaired. – This section shall not be construed to limit any authority that a unit of local government may have pursuant to any other provision of law to assess or collect a fee for the review of an application for a permit, the review of a mitigation plan, or the inspection of a site or a facility under any local program that is approved by the Commission under this Article."

SECTION 30.3.(b) G.S. 143-215.10G reads as rewritten:

"§ **143-215.10G. Fees for animal waste management systems.**

(a) The Department shall charge an annual permit fee to an animal operation that is subject to a permit under G.S. 143-215.10C for an animal waste management system according to the following schedule:

(1) For a system with a design capacity of 38,500 or more and less than 100,000 pounds steady state live weight, ~~fifty dollars ($50.00).~~sixty dollars ($60.00).

(2) For a system with a design capacity of 100,000 or more and less than 800,000 pounds steady state live weight, ~~one hundred fifty dollars ($150.00).~~one hundred eighty dollars ($180.00).

(3) For a system with a design capacity of 800,000 pounds or more steady state live weight, ~~three hundred dollars ($300.00).~~three hundred sixty dollars ($360.00).

(a1) The Department shall charge an annual permit fee to a dry litter poultry facility that is subject to a permit under G.S. 143-215.10C for an animal waste management system according to the following schedule:

(1) For a system with a permitted capacity of less than 25,000 laying chickens, less than 37,500 nonlaying chickens, or less than 16,500 turkeys, ~~fifty dollars ($50.00).~~sixty dollars ($60.00).

(2) For a system with a permitted capacity of 25,000 or more but less than 200,000 laying chickens, 37,500 or more but less than 290,000 nonlaying chickens, 16,500 or more but less than 133,000 turkeys, ~~one hundred fifty dollars ($150.00).~~one hundred eighty dollars ($180.00).

(3) For a system with a permitted capacity of more than 200,000 laying chickens, more than 290,000 nonlaying chickens, or more than 133,000 turkeys, ~~three hundred dollars ($300.00).~~three hundred sixty dollars ($360.00).

(b) An application for a new permit under this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee ~~will~~ shall be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Fees collected under this section shall be credited to the Water and Air Quality Account. The Department shall use fees collected pursuant to this section to cover the costs of administering this Part."

SECTION 30.3.(c) G.S. 90A-42 reads as rewritten:

"§ **90A-42. Fees.**

(a) The Commission, in establishing procedures for implementing the requirements of this Article, shall impose the following schedule of fees:

(1) Examination including Certificate, $85.00;

(2) Temporary Certificate, $200.00;

(3) Temporary Certification Renewal, $300.00;

(4) Conditional Certificate, $75.00;

(5) Repealed by Session Laws 1987, c. 582, s. 3.

(6) Reciprocity Certificate, $100.00;

(6a) Voluntary Conversion Certificate, $50.00;

(7) Annual Renewal, ~~$35.00;~~$50.00;

(8) Replacement of Certificate, $20.00;

(9) Late Payment of Annual Renewal, $50.00 penalty in addition to all current and past due annual renewal fees plus one hundred dollars

($100.00) penalty per year for each year for which annual renewal fees were not paid prior to the current year; and

(10) Mailing List Charges – The Commission may provide mailing lists of certified water pollution control system operators and of water pollution control system operators to persons who request such lists. The charge for such lists shall be twenty-five dollars ($25.00) for each such list provided.

(b) The Water Pollution Control System Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Account and applied to the costs of administering this Article."

SECTION 30.3.(d) This section becomes effective August 1, 2007.

CERTIFICATE OF NEED FEE INCREASES TO MEET STATUTORY OBLIGATIONS

SECTION 30.4.(a) G.S. 131E-177(9) reads as rewritten:

"(9) ~~Establish and collect~~ Collect fees for submitting applications for certificates of need. ~~The fee schedule established should generate sufficient revenue to offset the entire cost of the certificate of need program. This fee may not exceed seventeen thousand five hundred dollars ($17,500) and may not be less than two thousand dollars ($2,000). Fees collected under this subdivision shall be credited to the General Fund as nontax revenue.~~"

SECTION 30.4.(b) G.S. 131E-182(c) reads as rewritten:

"(c) An application fee is imposed on an applicant for a certificate of need. An applicant must submit the fee with the application. ~~All fees established by the Department for submitting an application for a certificate of need are due when the application is submitted. These fees are~~ The fee is not refundable, regardless of whether a certificate of need is issued. Fees collected under this section shall be credited to the General Fund as nontax revenue. The application fee is five thousand dollars ($5,000) plus an amount equal to three-tenths of one percent (.3%) of the amount of the capital expenditure proposed in the application that exceeds one million dollars ($1,000,000). In no event may the fee exceed fifty thousand dollars ($50,000)."

SECTION 30.4.(c) This section becomes effective October 1, 2007, and applies to applications submitted on or after that date.

HEALTH CARE FACILITY CONSTRUCTION PROJECT FEE INCREASES TO MEET STATUTORY OBLIGATIONS

SECTION 30.5.(a) G.S. 131E-267 reads as rewritten:

"§ **131E-267. Fees for departmental review of licensed health care facility or Medical Care Commission bond-financed construction projects.**

(a) The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project ~~basis, as follows, and~~ basis as provided in this section. In no event may a fee imposed under this section ~~shall not~~ exceed ~~twenty-five thousand dollars ($25,000)~~ two hundred thousand dollars ($200,000) for any single ~~project:~~project. The first seven hundred twelve thousand six hundred twenty-six dollars ($712,626) in fees collected under this section shall remain in the Division of Health Service Regulation. Additional

fees collected shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriations made for this purpose.

~~**Institutional Project**~~	~~**Project Fee**~~
~~Hospitals~~	~~$300.00 plus $0.20/square foot of project space~~
~~Nursing Homes~~	~~$250.00 plus $0.16/square foot of project space~~
~~Ambulatory Surgical Facility~~	~~$200.00 plus $0.16/square foot of project space~~
~~Psychiatric Hospital~~	~~$200.00 plus $0.16/square foot of project space~~
~~Adult Care Home~~	
~~7 or more beds~~	~~$175.00 plus $0.10/square foot of project space~~

(b) The fee imposed for the review of a hospital construction project varies depending upon the square footage of the project:

Over	**Up To**	**Project Fee**
-0-	5,000	$750.00 plus $0.25 per square foot
5,000	10,000	$1,500 plus $0.40 per square foot
10,000	20,000	$2,000 plus $0.50 per square foot
20,000	NA	$3,000 plus $0.75 per square foot

(c) The fee imposed for the review of a nursing home construction project varies depending upon the square footage of the project:

Over	**Up To**	**Project Fee**
-0-	2,000	$250.00 plus $0.15 per square foot
2,000	NA	$250.00 plus $0.16 per square foot

(d) The fee imposed for the review of an ambulatory surgical facility construction project varies depending upon the square footage of the project:

Over	**Up To**	**Project Fee**
-0-	2,000	$200.00 plus $0.15 per square foot
2,000	NA	$250.00 plus $0.20 per square foot

(e) The fee imposed for the review of a psychiatric hospital construction project varies depending upon the square footage of the project:

Over	**Up To**	**Project Fee**
-0-	5,000	$200.00 plus $0.16 per square foot
5,000	10,000	$200.00 plus $0.25 per square foot
10,000	20,000	$300.00 plus $0.45 per square foot
20,000	NA	$400.00 plus $0.45 per square foot

(f) The fee imposed for the review of an adult care home construction project varies depending upon the square footage of the project:

Over	**Up To**	**Project Fee**
-0-	2,000	$175.00 plus $0.10 per square foot
2,000	NA	$175.00 plus $0.20 per square foot

(g) The fee imposed for the review of the following residential construction projects is:

Residential Project	**Project Fee**
Family Care Homes	~~$175.00~~$200.00 flat fee
ICF/MR Group Homes	~~$275.00~~ $300.00 flat fee
Group Homes: 1-3 beds	$100.00 flat fee
Group Homes: 4-6 beds	~~$175.00~~ $200.00 flat fee
Group Homes: 7-9 beds	~~$225.00~~ $250.00 flat fee
Other residential:	

~~More than 9 beds~~	~~$225.00 plus $0.075/square foot of project space.~~
More than 9 beds	$250.00 plus $0.75 per square foot of project space."

SECTION 30.5.(b) This section becomes effective October 1, 2007, and applies to applications for review submitted on or after that date.

CHANGE CORPORATE ANNUAL REPORT FEES

SECTION 30.6.(a) G.S. 55-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

	Document	Fee
(1)	Articles of incorporation	$125.00
(2)	Application for reserved name	30.00
(3)	Notice of transfer of reserved name	10.00
(4)	Application for registered name	10.00
(5)	Application for renewal of registered name	10.00
(6)	Corporation's statement of change of registered agent or registered office or both	5.00
(7)	Agent's statement of change of registered office for each affected corporation	5.00
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	5.00
(10)	Amendment of articles of incorporation	50.00
(11)	Restated articles of incorporation	10.00
	with amendment of articles	50.00
(12)	Articles of merger or share exchange	50.00
(12a)	Articles of conversion (other than articles of conversion included as part of another document)	50.00
(13)	Articles of dissolution	30.00
(14)	Articles of revocation of dissolution	10.00
(15)	Certificate of administrative dissolution	No fee
(16)	Application for reinstatement following administrative dissolution	100.00
(17)	Certificate of reinstatement	No fee
(18)	Certificate of judicial dissolution	No fee
(19)	Application for certificate of authority	250.00
(20)	Application for amended certificate of authority	75.00
(21)	Application for certificate of withdrawal	25.00
(22)	Certificate of revocation of authority to transact business	No fee
(23)	Annual report (paper)	~~20.00~~ 25.00
(23a)	Annual report (electronic)	18.00
(24)	Articles of correction	10.00
(25)	Application for certificate of existence or authorization (paper)	15.00
(25a)	Application for certificate of existence or authorization (electronic)	10.00
(26)	Any other document required or permitted to be filed by this Chapter	10.00
(27)	Repealed by Session Laws 2001-358, s. 6(b), effective January 1, 2002."	

SECTION 30.6.(b) G.S. 105-122.1 reads as rewritten:

"§ **105-122.1. Credit for additional annual report fees paid by limited liability companies subject to franchise tax.**

A limited liability company subject to tax under this Article is allowed a credit against the tax imposed by this Article equal to the difference between the annual report

fee for corporations under ~~G.S. 55-1-22~~ G.S. 55-1-22(a)(23) and the annual report fee for limited liability companies under G.S. 57C-1-22(a). The credit allowed by this section may not exceed the amount of tax imposed by this Article for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 30.6.(c) Subsection (a) of this section becomes effective September 1, 2007, and applies to annual reports filed on or after that date. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2007. The remainder of this section is effective when it becomes law.

INCREASE COURT FEES AND AMEND THE ACCESS TO CIVIL JUSTICE ACT

SECTION 30.8.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars ($5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars ($30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such

county, or to supplement the operations of the General Court of Justice in the county.

(3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of six dollars and twenty-five cents ($6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents ($5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents ($1.25) being administered in accordance with the provisions of G.S. 143-166.50(e).

(3a) For the supplemental pension benefits of sheriffs, the sum of one dollar twenty-five cents ($1.25) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.

(4) For support of the General Court of Justice, the sum of ~~eighty-five dollars and fifty cents ($85.50)~~ ninety-five dollars and fifty cents ($95.50) in the district court, including cases before a magistrate, and the sum of ~~ninety-two dollars and fifty cents ($92.50)~~ one hundred two dollars and fifty cents ($102.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of ~~one dollar and five cents ($1.05)~~ two dollars and five cents ($2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

(5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars ($15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.

(6) For support of the General Court of Justice, ~~for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2,~~ the sum of ~~fifty dollars ($50.00), to be remitted to the State Treasurer.~~ one hundred dollars ($100.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee. This fee shall be remitted to the State Treasurer.

(7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars ($300.00) to be

remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars ($300.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the State Bureau of Investigation under subdivision (7) of this subsection. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

SECTION 30.8.(b) G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in cases heard before a magistrate, and the sum of sixteen dollars ($16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of ~~seventy-nine dollars ($79.00)~~ninety-three dollars ($93.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional two hundred dollars ($200.00) shall be paid upon its assignment, and the sum of ~~sixty-four dollars ($64.00)~~ seventy-three dollars ($73.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~fifty-three dollars ($53.00).~~ sixty-three dollars ($63.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and~~

~~five cents ($1.05)~~two dollars and five cents ($2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 30.8.(c) G.S. 7A-306(a) reads as rewritten:

"(a) In every special proceeding in the superior court, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice the sum of forty dollars ($40.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents ($1.05)~~two dollars and five cents ($2.05) of each forty-dollar ($40.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 30.8.(d) G.S. 7A-307(a) reads as rewritten:

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

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of ~~forty dollars ($40.00),~~fifty dollars ($50.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars ($6,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is

filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars ($15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents ($1.05)~~two dollars and five cents ($2.05) of each ~~forty-dollar ($40.00)~~fifty-dollar ($50.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed six thousand dollars ($6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars ($20.00) shall be assessed on the filing of each annual and final account.

(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

(2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36A-23.1 if there is no requirement in the trust that accountings be filed with the clerk.

(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars ($20.00)."

SECTION 30.8.(e) G.S. 7A-308(a)(1) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1) Foreclosure under power of sale in deed of trust or mortgage .... ~~$60.00~~$75.00 If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars ($100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars ($10.00), a minimum ten dollar ($10.00) fee will be collected. If the amount determined by the formula is more than ~~three hundred dollars ($300.00),~~ five hundred dollars ($500.00), a maximum ~~three hundred dollar ($300.00)~~ five hundred-dollar ($500.00) fee will be collected."

SECTION 30.8.(f) G.S. 7A-308(a)(17) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

…

(17) Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20 ..... ~~10.00~~15.00"

SECTION 30.8.(g) G.S. 7A-474.1 reads as rewritten:

"§ **7A-474.1. Legislative findings and purpose.**

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for indigent persons in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through ~~five geographically based field~~ the established legal services programs in this State."

SECTION 30.8.(h) G.S. 7A-474.2(4) reads as rewritten:

"§ **7A-474.2. Definitions.**

The following definitions shall apply throughout this Article, unless the context otherwise requires:

…

(4) ~~"Geographically based field~~ "Established legal services programs" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Services of the Southern Piedmont, serving Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties; Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; ~~North Central Legal Assistance Program, serving Durham, Franklin, Granville, Person, Vance, and Warren Counties;~~ Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal ~~Services~~ Aid of North Carolina, ~~serving 83 counties in North Carolina;~~ a statewide program; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area."

SECTION 30.8.(i) G.S. 7A-474.4 reads as rewritten:

"§ **7A-474.4. Funds.**

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the ~~geographically based field~~ established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the ~~five geographically based field~~ established legal services programs based upon the eligible client population in each ~~area program,~~ area, with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania ~~Counties, based upon the eligible client population in each area program.~~ Counties; Legal Aid Society of Northwest North Carolina receiving half of the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; and Legal Services of Southern Piedmont receiving half of the allocation for Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties. The North Carolina State Bar shall not use any of these funds for its administrative costs."

SECTION 30.8.(j) G.S. 7A-474.5 reads as rewritten:

"§ **7A-474.5. Records and reports.**

The ~~geographically based field~~ established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar."

SECTION 30.8.(k) G.S. 84-4.1(7) reads as rewritten:

"§ **84-4.1. Limited practice of out-of-state attorneys.**

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of and in good standing in that state, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the proceeding. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

…

(7) A fee in the amount of ~~one hundred twenty-five dollars ($125.00),~~ two hundred twenty-five dollars ($225.00), of which ~~one hundred dollars ($100.00)~~ two hundred dollars ($200.00) shall be remitted to the State Treasurer for support of the General Court of Justice and twenty-five dollars ($25.00) shall be transmitted to the North Carolina State Bar to regulate the practice of out-of-state attorneys as provided in this section.

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application."

SECTION 30.8.(l) Subsection (a) of this section becomes effective August 1, 2007, and applies to all costs assessed or collected on or after that date, except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a) of this section, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs are specified in that notice. Subsections (b), (c), (d), (e), (f), and (k) of this section become effective August 1, 2007, and apply to all costs assessed or collected on or after that date. The remainder of this section becomes effective July 1, 2007.

COLLECTION OF OUTSTANDING FINES AND FEES BY THE COURTS

SECTION 30.9.(a) G.S. 7A-321 reads as rewritten:

"§ **7A-321. Collection of offender fines and fees assessed by the court.**

(a) The Judicial Department may, in lieu of payment by cash or check, accept payment by credit card, charge card, or debit card for the fines, fees, and costs owed to the courts by offenders.

(b) In attempting to collect the fines, fees, and costs owed by offenders not sentenced to supervised probation, the Department may:

(1) Assess a collection assistance fee if an amount due remains unpaid for 30 days after the time period allotted by the court. The amount of the collection assistance fee shall not exceed the average cost of collecting the debt or twenty percent (20%) of the amount past due, whichever is less.

(2) Enter into contracts with a collection agency or agencies to collect unpaid fines, fees, and costs owed by offenders not sentenced to supervised probation.

(3) Intercept tax refund checks under Chapter 105A of the General Statutes, the Setoff Debt Collection Act.

(c) Should the Judicial Department use any method listed in subdivision (b)(1) or (2) of this section to collect fines, fees, and costs owed by offenders not sentenced to supervised probation, the department may not charge any additional cost of collection pursuant to G.S. 115C-437."

SECTION 30.9.(b) This section becomes effective August 1, 2007, and applies to cases adjudicated on or after that date.

INCREASE AND CLARIFY CERTAIN COURT COSTS

SECTION 30.10.(a) G.S. 7A-305 is amended by adding a new subsection to read:

"(a1) Costs apply to any and all additional and subsequent actions filed by amendment to the original action brought under Chapter 50B of the General Statutes, unless such additional and subsequent amendment to the action is also brought under Chapter 50B of the General Statutes."

SECTION 30.10.(b) G.S. 7A-307(a)(2a) reads as rewritten:

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

…

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed six thousand dollars ($6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars ($20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed.

…."

SECTION 30.10.(c) G.S. 7A-308(a)(12) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

…

(12) Preparation of copies

—first page (of each document copied)..... 2.00

— each additional page or fraction thereof..... .25

…."

SECTION 30.10.(d) G.S. 7A-317 reads as rewritten:

"§ **7A-317. Counties and municipalities not required to advance certain fees.**

Counties and municipalities are not required to advance ~~costs for the facilities fee, the General Court of Justice fee, the miscellaneous fees enumerated in G.S. 7A-308, or~~ the civil process fees enumerated in G.S. 7A-311."

SECTION 30.10.(e) G.S. 20-16.5(j) reads as rewritten:

"(j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a person whose license is revoked under this section must pay a fee of ~~fifty dollars ($50.00)~~ one hundred dollars ($100.00) as costs for the action before the person's license may be returned under subsection ~~(h). The~~ (h) of this section. Fifty percent (50%) of the costs collected under this section shall be credited to the General Fund. ~~Fifty percent (50%)~~Twenty-five percent (25%) of the costs collected under this section shall be used to fund a statewide chemical alcohol testing program administered by the Injury Control Section of the Department of Health and Human Services. The remaining twenty-five percent (25%) of the costs collected under this section shall be remitted to the county for the sole purpose of reimbursing the county for jail expenses incurred due to enforcement of the impaired driving laws."

SECTION 30.10.(f) G.S. 130A-106(b) is repealed.

SECTION 30.10.(g) G.S. 130A-107(d) is repealed.

SECTION 30.10.(h) Subsection (d) of this act becomes effective July 1, 2008. The remainder of this act becomes effective August 1, 2007, and applies to all costs assessed or collected on or after that date.

ESTABLISH PROCESSING FEE FOR LIMITED DRIVING PRIVILEGE

SECTION 30.11.(a) G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) An application or a petition for a limited driving privilege under Chapter 20 of the General Statutes is subject to the court costs assessed under subsection (a) of this section plus an additional processing fee of one hundred dollars ($100.00). The additional fee shall be remitted to the State Treasurer and used for support of the General Court of Justice."

SECTION 30.11.(b) Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-20.2. Processing fee for limited driving privilege.**

Upon the issuance of a limited driving privilege by a court under this Chapter, the applicant or petitioner must pay, in addition to any other costs associated with obtaining the privilege, the processing fee imposed under G.S. 7A-305(a3). The applicant or petitioner shall pay this fee to the clerk of superior court in the county in which the limited driving privilege is issued. The failure to pay this fee shall render the privilege invalid."

SECTION 30.11.(c) If Senate Bill 758, 2007 General Assembly, becomes law, then Section 2 of Senate Bill 758 is repealed.

SECTION 30.11.(d) If Senate Bill 758, 2007 General Assembly, becomes law, then G.S. 20-20.1(d), as enacted by that act, reads as rewritten:

"(d) Petition. – A person may apply for a limited driving privilege under this section by filing a petition. A petition filed under this section is separate from the action that resulted in the initial revocation and is a civil action. A petition must be filed in district court in the county of the person's residence as reflected by the Division's records or, if the Division's records are inaccurate, in the county of the person's actual

residence. A person must attach to a petition a copy of the person's motor vehicle record. A petition must include a sworn statement that the person filing the petition is eligible for a limited driving privilege under this section.

A court, for good cause shown, may issue a limited driving privilege to an eligible person in accordance with this section. ~~The costs required under G.S. 7A-305(a) and (a3) apply to a petition filed under this section.~~ The clerk of court for the court that issues a limited driving privilege under this section must send a copy of the limited driving privilege to the Division."

SECTION 30.11.(e) Subsections (a) and (b) of this section become effective August 1, 2007, and apply to costs assessed or collected on or after that date. Subsections (c) and (d) of this section become effective December 1, 2007. The remainder of this section is effective when it becomes law.

PART XXXI. TAX LAW CHANGES

IRC UPDATE

SECTION 31.1.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

…

(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2006,~~ January 1, 2007, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 31.1.(b) Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 1, 2006, that increase North Carolina taxable income for the 2006 taxable year become effective for taxable years beginning on or after January 1, 2007.

SECTION 31.1.(c) This section is effective when it becomes law.

MAINTAIN CURRENT SALES TAX RATE

SECTION 31.2.(a) Subsections 24.1(c), (e), (g), and (i) of S.L. 2006-66 are repealed.

SECTION 31.2.(b) Section 24.1(j) of S.L. 2006-66, as amended by Section 9(a) of S.L. 2007-145, reads as rewritten:

"**SECTION 24.1.(j)** Subsection (b) of this section becomes effective December 1, 2006, and applies to sales made on or after that date. Subsections (d), (f), and (h) of this section become effective January 1, 2007, and apply to taxes collected on or after that date. ~~Subsection (c) of this section becomes effective August 1, 2007, and applies to sales made on or after that date. Subsections (e), (g), and (i) of this section become effective August 1, 2007, and apply to taxes collected on or after that date.~~ The remainder of this section is effective when it becomes law."

SECTION 31.2.(c) This section is effective when it becomes law.

EARNED INCOME TAX CREDIT

SECTION 31.4.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.31. Earned income tax credit.**

(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to three and one-half percent (3.5%) of the amount of credit the individual

qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

(b) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. Section 3507 of the Code, Advance Payment of Earned Income Credit, does not apply to the credit allowed by this section. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013."

SECTION 31.4.(b) G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.
(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.
(3) G.S. 105-151.18. Credit for the disabled.
(4) G.S. 105-151.24. Credit for children.
(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
(6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.
(7) G.S. 105-151.28. Credit for long-term care insurance.
(8) G.S. 105-151.30. Credit for recycling oyster shells.
(9) G.S. 105-151.31. Earned income tax credit."

SECTION 31.4.(c) This section is effective for taxable years beginning on or after January 1, 2008.

REENACT LONG-TERM CARE CREDIT

SECTION 31.5.(a) G.S. 105-151.28 is reenacted and reads as rewritten:

"§ **105-151.28. Credit for premiums paid on long-term care insurance.**

(a) Credit. ~~An individual is~~ A taxpayer whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this section is allowed, as a credit against the tax imposed by this Part, an amount equal to fifteen percent (15%) of the premium costs the ~~individual~~ taxpayer paid during the taxable year on a qualified long-term care insurance contract that offers coverage to either the ~~individual,~~ taxpayer, the ~~individual's~~taxpayer's spouse, or a dependent for whom the ~~individual~~ taxpayer was allowed to deduct a personal exemption under section 151(c)~~(1)(A)~~ of the Code for the taxable year. The credit allowed by this section may not exceed three hundred fifty dollars ($350.00) for each qualified long-term care insurance contract for which a credit is claimed. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who claims the credit allowed by this subsection shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

Filing Status	**AGI**
Married, filing jointly	$100,000

Head of Household	80,000
Single	60,000
Married, filing separately	50,000

(b) No Double Benefit. – No credit is allowed for payments that are deducted from, or not included in, the taxpayer's gross income for the taxable year. If the taxpayer claimed a deduction for health insurance costs of self-employed individuals under section 162(l) of the Code for the taxable year, the amount of credit otherwise allowed the taxpayer under this section is reduced by the applicable percentage provided in section 162(l) of the Code. If the taxpayer claimed a deduction for medical care expenses under section 213 of the Code for the taxable year, the taxpayer is not allowed a credit under this section. A taxpayer who claims the credit allowed by this section must provide any information required by the Secretary to demonstrate that the amount paid for premiums for which the credit is claimed was not excluded from the taxpayer's gross income for the taxable year.

(c) Definition. – For purposes of this section, the term "qualified long-term care insurance contract" has the same meaning as defined in section 7702B of the Code.

(d) Sunset. – This section is repealed for taxable years beginning on or after January 1, 2013."

SECTION 31.5.(b) G.S. 105-160.3(b)(7) is reenacted.

SECTION 31.5.(c) This section is effective for taxable years beginning on or after January 1, 2007.

ADOPTION TAX CREDIT

SECTION 31.6.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read as follows:

"**§ 105-151.32. Credit for adoption expenses.**

(a) Credit. – An individual who is allowed a federal adoption tax credit under section 23 of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to fifty percent (50%) of the amount of credit allowed under section 23 of the Code.

(b) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013.

SECTION 31.6.(b) G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.
(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.
(3) G.S. 105-151.18. Credit for the disabled.
(4) G.S. 105-151.24. Credit for children.
(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
(6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.

(7) G.S. 105-151.28. Credit for long-term care insurance.
(8) G.S. 105-151.30. Credit for recycling oyster shells.
(10) G.S. 105-151.32. Credit for adoption expenses."

SECTION 31.6.(c) This section is effective for taxable years beginning on or after January 1, 2007.

PRIVILEGE TAX ON SOFTWARE PUBLISHERS' MACHINERY AND EQUIPMENT

SECTION 31.7.(a) G.S. 105-187.51B(a) is amended by adding a new subdivision to read:

"(a) Tax. – A privilege tax is imposed on the following:

…

(3) A software publishing company that is included in the industry group 5112 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
a. Is capitalized by the company for tax purposes under the Code.
b. Is used by the company in the research and development of tangible personal property.
c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant."

SECTION 31.7.(b) This section becomes effective October 1, 2007, and applies to sales occurring on or after that date.

ENHANCE TAX CREDIT FOR RESEARCH AND DEVELOPMENT EXPENDITURES

SECTION 31.8.(a) G.S. 105-129.55 reads as rewritten:

"§ **105-129.55. Credit for North Carolina research and development.**

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this subsection. Only one credit is allowed under this subsection with respect to the same expenses. If more than one subdivision of this subsection applies to the same expenses, then the credit is equal to the higher percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of this subsection and the remainder qualifies under subdivision (3) of this subsection, the applicable percentages apply separately to each part of the expenses.

(1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three and one-quarter percent ~~(3%).~~(3.25%).
(2) Low-tier research. – For expenses with respect to research performed in a development tier one area, the applicable percentage is three and one-quarter percent ~~(3%).~~(3.25%).
(3) Other research. – For expenses not covered under subdivision (1) or (2) of this subsection, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

Expenses Over	Up To	Rate

-0-	$50 million	~~1%~~1.25%
$50 million	$200 million	~~2%~~2.25%
$200 million	–	~~3%~~3.25%

(b) North Carolina University Research Expenses. – A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to ~~fifteen percent (15%)~~twenty percent (20%) of the expenses."

SECTION 31.8.(b) This section is effective for taxable years beginning on or after January 1, 2007.

MODIFY TAX CREDIT FOR CONSTRUCTING RENEWABLE FUEL FACILITIES

SECTION 31.9.(a) G.S. 105-129.16D(b1) reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars ($400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars ($400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may ~~not~~ take any remaining installment of the ~~credit.~~credit only to the extent allowed under subsection (b) of this section. The taxpayer may, however, take the portion of an installment under this subsection that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. ~~If a credit allowed under this subsection expires, a taxpayer is not eligible for a credit under subsection (b) of this section with respect to the same property.~~ Notwithstanding the provisions of G.S. 105-129.17, a ~~taxpayer may claim the credit allowed under this subsection against the income tax imposed under Article 4 of this Chapter only and the~~ taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years.

If a taxpayer that claimed a credit under this subsection fails to meet the requirements of this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits the difference between the alternative credit claimed under this subsection and the credit allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative credit under this subsection is liable for the additional taxes avoided plus interest at the rate established under G.S. 105-241.1(i), computed from the date the additional taxes would have been due if the credit had not been allowed. The additional taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest by the due date is subject to penalties provided in G.S. 105-236."

SECTION 31.9.(b) This section is effective for taxable years beginning on or after January 1, 2007.

EXPAND SALES AND USE TAX REFUND FOR CERTAIN AIRCRAFT MANUFACTURERS

SECTION 31.10.(a) G.S. 105-164.14(j)(3)b. reads as rewritten:

"(3) Industries. – This subsection applies to the following industries:

…

b. Aircraft manufacturing. Aircraft manufacturing means the manufacturing or assembling of complete ~~aircraft.~~aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight deck systems or components, wings, fuselage fairings, fins, moving leading and trailing wing edges, wing boxes, nose sections, tailplanes, passenger doors, nacelles, thrust reversers, landing gear, braking systems, or any combination thereof."

SECTION 31.10.(b) This section becomes effective July 1, 2007, and applies to purchases made on or after that date.

SET INSURANCE REGULATORY FEE

SECTION 31.12.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2007 calendar year.

SECTION 31.12.(b) This section is effective when it becomes law.

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 31.13.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2007.

SECTION 31.13.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is two hundred thousand dollars ($200,000).

SECTION 31.13.(c) This section becomes effective July 1, 2007.

AMEND SALES TAX HOLIDAY

SECTION 31.14.(a) G.S. 105-164.3 reads as rewritten:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

…

(37b) School instructional material. – Defined in the Streamlined Agreement.

(37d) School supply. – An item that is commonly used by a student in the course of study and is considered a 'school ~~supply', a 'school art supply', or 'school instructional material'~~supply' or 'school art supply' under the Streamlined Agreement.

…."

SECTION 31.14.(b) G.S. 105-164.13C(a) reads as rewritten:

"(a) The taxes imposed by this Article do not apply to the following items of tangible personal property if sold between 12:01 A.M. on the first Friday of August and 11:59 P.M. the following Sunday:

(1) Clothing with a sales price of one hundred dollars ($100.00) or less per item.

(2) School supplies with a sales price of one hundred dollars ($100.00) or less per item.

(2a) School instructional materials with a sales price of three hundred dollars ($300.00) or less per item.

(3) Computers with a sales price of three thousand five hundred dollars ($3,500) or less per item.

(3a) Computer supplies with a sales price of two hundred fifty dollars ($250.00) or less per item.

(4) Sport or recreational equipment with a sales price of fifty dollars ($50.00) or less per item."

SECTION 31.14.(c) This section becomes effective October 1, 2007, and applies to sales made on or after that date.

CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE FOR TWO YEARS

SECTION 31.15.(a) Notwithstanding G.S. 105-449.80(a), for the period July 1, 2007, through June 30, 2009, the variable wholesale component of the motor fuel excise tax rate may not exceed twelve and four-tenths cents (12.4¢) a gallon.

SECTION 31.15.(b) This section is effective when it becomes law.

STATE ASSUME MEDICAID RESPONSIBILITIES

SECTION 31.16.1.(a) Effective October 1, 2007, twenty-five percent (25%) of the nonfederal share of Medical Assistance Program costs and Medicare Part D clawback payments borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 31.16.1.(b) Effective July 1, 2008, fifty percent (50%) of the nonfederal share of Medical Assistance Program costs and Medicare Part D clawback payments borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 31.16.1.(c) Effective July 1, 2009, G.S. 108A-54 reads as rewritten:

"§ **108A-54. Authorization of Medical Assistance Program.**

The Department is authorized ~~and empowered~~ to establish a ~~Medical Assistance~~ Medicaid Program in accordance with Title XIX of the federal Social Security Act. ~~from federal, State and county appropriations and to adopt rules and regulations under which payments are to be made in accordance with the provisions of this Part.~~ The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. A county is responsible for the county's cost of administering the Program in that county. ~~The nonfederal share may be divided between the State and the counties, in a manner consistent with the provisions of the federal Social Security Act, except that the share required from the counties may not exceed the share required from the state. If a portion of the nonfederal share is required from the counties, the boards of county commissioners of the several counties shall levy, impose and collect the taxes required for the special purpose of medical assistance as provided in this Part, in an amount sufficient to cover each county's share of such assistance.~~"

SECTION 31.16.1.(d) Subsection (a) of this section becomes effective October 1, 2007, and applies to Medicaid claims paid by the State on or after that date and ends with claims paid by the State through May 31, 2008. Subsection (b) of this

section becomes effective June 1, 2008, and applies to Medicaid claims paid by the State on or after that date and ends with claims paid by the State through May 31, 2009. Subsection (c) of this section becomes effective June 1, 2009, and applies to Medicaid claims paid by the State on or after that date.

SECTION 31.16.2.(a) ADM Funding Adjustment. – Notwithstanding G.S. 115C-546.2(a), the amount that would otherwise be allocated to counties under that subsection for fiscal year 2007-2008 from the Public School Building Capital Fund is reduced as follows:

(1) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 31.16.1.(a) of this act exceeds the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by sixty percent (60%) of the amount the county would receive based on its average daily membership.

(2) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 31.16.1.(a) of this act does not exceed the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by an amount equal to sixty percent (60%) of the county's Medicaid payments that are assumed by the State for fiscal year 2007-2008.

SECTION 31.16.2.(b) Restriction. – In fiscal year 2007-2008, a county must use a portion of the revenue that is available to it, as a result of the assumption by the State of part of the county's Medicaid payments, for the purposes set out in G.S. 115C-546.2(b). The portion that must be used for these purposes is an amount equal to the difference between what the county would receive under G.S. 115C-546.2(a) based on its per average daily membership and the adjusted amount it receives under subsection (a) of this section.

SECTION 31.16.2.(c) County Hold Harmless. – If the amount of the county's Medicaid costs and Medicare Part D clawback payments assumed by the State for fiscal year 2007-2008, less the amount by which the county's ADM funding is reduced under subsection (a) of this section, does not equal or exceed five hundred thousand dollars ($500,000), the State must reimburse the county for the difference, but not less than one hundred dollars ($100.00).

The Secretary of the Department of Health and Human Services must certify to the Secretary of Revenue the amount of the county's Medicaid costs and Medicare Part D clawback payments assumed by the State under section 31.16.1.(a) of this act. To obtain the revenue for the hold harmless distribution, the Secretary of Revenue must withhold from sales and use tax collections under Article 5 of this Chapter the amount needed to make the hold harmless payments.

The Secretary of Revenue must estimate a county's hold harmless amount and send the county ninety percent (90%) of the estimated amount with the sales tax distribution made under G.S. 105-472 for March of 2008. At the end of the 2007-2008 fiscal year, the Secretary must determine the county's actual hold harmless amount for the 2007-2008 fiscal year and send the remainder of the county's hold harmless amount to the county by August 15, 2008.

SECTION 31.16.2.(d) This section is effective when it becomes law. Subsections (a) and (b) of this section apply to allocations from the Public School Building Capital Fund for fiscal year 2007-2008.

SECTION 31.16.3.(a) Notwithstanding the provisions of Article 44 of Chapter 105 of the General Statutes that authorize one-half percent (1/2%) local sales and use taxes, the tax rate for a tax imposed under that Article for the period October 1, 2008, through September 30, 2009, is one-quarter percent (1/4%) rather than one-half percent (1/2%). A resolution enacted by a county under Article 44 before October 1, 2008, to levy one-half percent (1/2%) local sales and use tax is considered to be a resolution authorizing the levy of one-fourth percent (1/4%) local sales and use taxes under that Article, as amended by this section.

SECTION 31.16.3.(b) G.S. 105-520 reads as rewritten:

"§ **105-520. Distribution of taxes.**

(a) Point of Origin. – The Secretary must, on a monthly basis, allocate to each taxing county ~~one-half of~~ the net proceeds of the tax collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate ~~one-half of~~ the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

~~(b) Per Capita. – The Secretary must, on a monthly basis, allocate the remaining net proceeds of the tax collected under this Article among the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).~~

(c) Distribution Between Counties and Cities. – The Secretary must divide and distribute the funds allocated under this section each month between each taxing county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this subsection for a month if it is not entitled to a distribution under G.S. 105-501 for the same month."

SECTION 31.16.3.(c) G.S. 105-521 reads as rewritten:

"§ **105-521. Transitional local government ~~hold harmless.~~hold harmless for repealed reimbursements.**

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

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.

(2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(3a) Replacement revenue. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before August 15, ~~2003,~~ 2008, and every August 15 through August 15, 2012, the Secretary must multiply each local government's local sales tax share by the estimated amount of replacement revenue that all local governments ~~would be~~ are expected to receive during the current fiscal ~~year under G.S. 105-520 if every county levied the tax under this Article for the~~ year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

On or before ~~May 1, 2003, and every May 1~~ May 1 of each fiscal year through May 1, 2012, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount of replacement revenue that all local governments would be expected to receive during the upcoming ~~fiscal year under G.S. 105-520 if every county levied the tax under this Article for the~~ fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 through January 31, 2013, the amount distributed under this section for the current fiscal year."

SECTION 31.16.3.(d) G.S. 105-472 is amended by adding a new subsection to read:

"(b1) County Reduction for City Hold Harmless. – The Secretary must reduce each county's monthly allocation under subsection (b) of this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section."

SECTION 31.16.3.(e) Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding a new paragraph at the end of that section to read:

"The Secretary of Revenue must reduce the amount distributable to Mecklenburg County under this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section."

SECTION 31.16.3.(f) Article 44 of Chapter 105 of the General Statutes is amended by adding two new sections to read:

"**§ 105-522. City hold harmless for repealed local taxes.**

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

(1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

(2) Hold harmless amount. – Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(b) Requirement. – A county is required to hold the eligible municipalities in the county harmless from the repeal of the local sales and use taxes formerly imposed under this Article. The Secretary must add an eligible municipality's hold harmless amount to the amount distributed to the municipality under this Subchapter. To obtain the revenue for the hold harmless distribution, the Secretary must reduce each county's monthly allocation under G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the municipalities in that county.

"**§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least five hundred thousand dollars ($500,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

(1) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less five hundred thousand dollars ($500,000).

(2) Repealed sales tax amount. – Fifty percent (50%) of the amount of sales and use tax revenue distributed to a county under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(b) Requirement. – If a county's repealed sales tax amount for a fiscal year exceeds the county's hold harmless threshold for that fiscal year, the State is required to hold the county harmless for the difference by paying the amount of the difference to the county. The Secretary must withhold from sales and use tax collections under Article 5 of this Chapter the amount needed to make the hold harmless payments required by this section.

(c) Method. – The Secretary must estimate a county's repealed sales tax amount and hold harmless threshold for a fiscal year to determine if the county is eligible for a hold harmless payment. The Secretary must send to an eligible county with the distribution made under G.S. 105-472 for March of that year an amount equal to ninety percent (90%) of its estimated hold harmless payment. At the end of each fiscal year, the Secretary must determine the difference between a county's repealed sales tax amount and its hold harmless threshold for that year. The Secretary must send by

August 15 the remainder of the county's hold harmless payment for the fiscal year that ended on June 30. The Secretary of the Department of Human Resources must give the Secretary of Revenue the data needed to determine a county's hold harmless threshold."

SECTION 31.16.3.(g) For fiscal year 2008-2009, the repealed sales tax amount determined under G.S. 105-522 and G.S. 105-523, as enacted by this section, is calculated based on fifty percent (50%) of the amount distributed to a municipality or county under Article 40 of Chapter 105 of the General Statutes on or after October 2, 2008, less the amount distributed to the municipality or county on a per capita basis under repealed G.S. 105-520(b) in October, November, and December of 2008.

SECTION 31.16.3.(h) G.S. 105-164.4(a), as amended by Section 31.2 of this act, reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four and one-quarter percent (4.25%).~~four and one-half percent (4.5%)."

SECTION 31.16.3.(i) Section 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, 40, ~~42, 43, and 44~~ 42, and 43 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, 105-486, and 105-501 do not apply to tax proceeds distributed under this section."

SECTION 31.16.3.(j) Subsection (c) of this section becomes effective January 1, 2008. The remainder of this section becomes effective October 1, 2008. Subsections (a) and (h) of this section apply to sales occurring on or after that date. The remaining subsections apply to distributions for months beginning on or after that date.

SECTION 31.16.4.(a) G.S. 105-515, 105-516, 105-517, 105-518, 105-519, and 105-520 are repealed.

SECTION 31.16.4.(b) G.S. 105-501 reads as rewritten:

"§ **105-501. Distribution of additional taxes.**

(a) Method. – The Secretary ~~shall,~~ must, on a monthly basis, allocate to each taxing county the net proceeds of the additional one-half percent (1/2%) sales and use taxes ~~levied~~ collected in that county under this ~~Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among~~ Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

The Secretary must divide and distribute the funds allocated to a taxing county each month under this section between the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this

section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. ~~The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.~~

(b) Deductions. – In determining the net proceeds of the tax to be distributed, the Secretary ~~shall~~ must deduct from the collections to be allocated an amount equal to one-twelfth of the costs during the preceding fiscal year of:

(1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.

(1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.

(2) The Property Tax Commission.

(3) The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.

(4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission."

SECTION 31.16.4.(c) G.S. 105-522(a), as enacted by Section 31.16.3(f) of this act, reads as rewritten:

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

(1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

(2) Hold harmless amount. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. If the difference is negative, the result increases the hold harmless amount."

SECTION 31.16.4.(d) G.S. 105-523(a), as enacted by Section 31.16.3(f) of this act, reads as rewritten:

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

(1) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, plus five hundred thousand dollars ($500,000).

(2) Repealed sales tax amount. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed to a county under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. If the difference is negative, the result increases the hold harmless amount."

SECTION 31.16.4.(e) For fiscal year 2009-2010, the repealed sales tax amount determined under G.S. 105-522(2)(a)(2)b, as enacted by this section, and G.S. 105-523(a)(2)b, as enacted by this section, is calculated based on twenty-five percent (25%) of the amount distributed to a municipality or county under Article 39 of Chapter 105 of the General Statutes or Chapter 1096 of the 1967 Session Laws on or after October 1, 2009, less the amount distributed to the municipality or county on the basis of point of origin under repealed G.S. 105-520(a) in October, November, and December of 2009.

SECTION 31.16.4.(f) The title of Article 44 of Chapter 105 of the General Statutes reads as rewritten:

"Article 44.

"~~Third One-Half Cent (1/2¢) Local Government Sales and Use Tax.~~Local Government Hold Harmless Provisions."

SECTION 31.16.4.(g) G.S. 105-164.4(a), as amended by Sections 31.2 and 31.16.3(h) of this act, reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and ~~one-half percent (4.5%).~~three-quarters percent (4.75%)."

SECTION 31.16.4.(h) This section becomes effective October 1, 2009. Subsections (a) and (g) of this section apply to sales occurring on or after that date. Subsections (b), (c), and (d) of this section apply to distributions for months beginning on or after that date.

LOCAL OPTION COUNTY TAXES

SECTION 31.17.(a) Chapter 105 of the General Statutes is amended by adding a new Subchapter to read:

"**SUBCHAPTER X. LOCAL OPTION COUNTY TAXES.**

"Article 60.

"Land Transfer Tax.

"**§ 105-600. Short title.**

This Article is the County Land Transfer Tax Act.

"**§ 105-601. Levy.**

(a) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local land transfer tax on instruments conveying interests in real property located in the county, up to a rate of four-tenths percent (0.4%), in increments of one-tenth percent (0.1%).

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local land transfer tax in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

Real property transfer tax at the rate of up to [X] percent [X%] of value or consideration.'

(d) Resolution. – The board of county commissioners must, upon adoption of a resolution levying a tax under this Article, immediately deliver a certified copy of the resolution to the register of deeds of the county, accompanied by a certified statement from the county board of elections setting forth the results of the special election approving the tax in the county. Upon receipt of these documents, the register of deeds shall administer the tax in the county as provided in this Article.

(e) Limitation. – A tax levied under this Article may not be in effect in a county at the same time as a tax levied under Article 46 of this Chapter.

"**§ 105-602. Scope of tax.**

(a) Scope. – A tax levied under this Article does not apply to transfers exempt pursuant to G.S. 105-228.28 or G.S. 105-228.29 from the tax levied by Article 8E of this Chapter. The tax is in addition to the tax levied by Article 8E of this Chapter. A tax levied under this Article applies to transfers of interests in real property located within the county. If the property is located in two or more counties, a transfer of an interest in the property is taxable only by the county in which the greater part of the property, with respect to value, lies.

(b) Basis and Effective Date. – A tax levied under this Article applies to the consideration or value, whichever is greater, of the interest conveyed, including the value of any lien or encumbrance remaining on the property at the time of conveyance. The levy of the tax may become effective only on the first day of a calendar month set in the resolution levying the tax, which may not be earlier than the first day of the second succeeding calendar month after the date the resolution is adopted.

"**§ 105-603. Administration and use.**

(a) Administration. – A tax levied under this Article is payable by the transferor of the interest. Except as otherwise provided in this Article, the provisions of G.S. 105-228.32 through G.S. 105-228.37 apply to a tax levied under this Article. The county must provide metering or similar equipment for the collection of the tax in lieu of the use of tax stamps.

(b) Use. – The proceeds of a tax levied under this Article may be used for any lawful purpose.

"**§ 105-604. Repeal or reduction.**

A county may, by resolution, repeal or reduce the rate of a tax levied under this Article. Repeal or reduction of the tax must become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal or

reduction resolution was adopted. Repeal of a land transfer tax, or reduction of its rate, under this Article does not affect a liability for a tax that attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction."

SECTION 31.17.(b) Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"One-Quarter Cent (1/4¢) County Sales and Use Tax.

"**§ 105-535. Short title.**

This Article is the One-Quarter Cent (1/4¢) County Sales and Use Tax Act.

"**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"**§ 105-537. Levy.**

(a) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent (0.25%).

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other State and local sales and use taxes.'

(d) Limitation. – A tax levied under this Article may not be in effect in a county at the same time as a tax levied under Article 60 of this Chapter.

"**§ 105-538. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B. The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county. Notwithstanding the provisions of G.S. 105-467(c), during the 2008 calendar year a tax levied under this Article may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 60 days' advance notice of the new tax levy."

SECTION 31.17.(c) G.S. 105-164.15A reads as rewritten:

"**§ 105-164.15A. Effective date of rate changes for ~~services.~~ services and items taxed at combined general rate.**

(a) Services. – The effective date of a rate change for a service taxable under this Article is administered as follows:

(1) For a rate increase, the new rate applies to the first billing period that starts on or after the effective date. For a service billed after it is

provided, the first billing period starts on the effective date. For a service billed before it is provided, the first billing period starts on the first day of the month after the effective date.

(2) For a rate decrease, the new rate applies to bills rendered on or after the effective date.

(b) Combined Rate Items. – The effective date of a rate change for an item that is taxable under this Article at the combined general rate is the effective date of any of the following:

(1) The effective date of a change in the State general rate of tax set in G.S. 105-164.4.

(2) For an increase in the authorization for local sales and use taxes, the date on which local sales and use taxes authorized by Subchapter VIII of this Chapter for every county become effective in the first county or group of counties to levy the authorized taxes.

(3) For a repeal in the authorization for local sales and use taxes, the effective date of the repeal."

SECTION 31.17.(d) This section is effective when it becomes law.

ALTERNATIVE FOR ADDRESSING A CORPORATION'S ATTEMPT TO AVOID STATE TAXES THROUGH THE USE OF A REIT

SECTION 31.18.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(19) The dividend paid deduction allowed under the Code to a captive REIT, as defined in G.S. 105-130.12."

SECTION 31.18.(b) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(23) A dividend received from a captive REIT, as defined in G.S. 105-130.12."

SECTION 31.18.(c) G.S. 105-130.12 reads as rewritten:

"§ **105-130.12. ~~Regulated investment companies and real~~ Real estate investment trusts.**

~~Any organization or trust which, in the opinion of the Secretary of Revenue of North Carolina, qualifies as either a "regulated investment company" under section 851 of the Code or as a "real estate investment trust" under section 856 of the Code and which files with the North Carolina Department of Revenue its election to be treated as a "regulated investment company," or as a "real estate investment trust" shall be taxed under this Part upon only that part of its net income which is not distributed or declared for distribution to shareholders during the income year or by the time required by law for the filing of the return for the income year including the period of any extension of time granted for filing such return.~~

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

(1) Captive REIT. – A REIT whose shares or certificates of beneficial interest are not regularly traded on an established securities market and are owned or controlled, at any time during the last half of the tax year, by a person that is subject to tax under this Part and is not a REIT or a listed Australian property trust.

(2) Own or control. – To own or control directly, indirectly, beneficially, or constructively more than fifty percent (50%) of the voting power or value of an entity. The attribution rules of section 318 of the Code, as

modified by section 856(d)(5) of the Code, apply in determining ownership and control.

(3) REIT. – A trust or another entity that qualifies as a real estate investment trust under section 856 of the Code.

(b) Tax. – The income of a REIT is taxable under this Part in accordance with the Code, unless the REIT is a captive REIT. A captive REIT is required to add to its federal taxable income the amount of a dividend paid deduction allowed under the Code, as provided in G.S. 105-130.5."

SECTION 31.18.(d) The Department of Revenue must report to the Revenue Laws Study Committee by May 1, 2009, on the amount of corporate income tax revenue generated in the 2007 taxable year by the addition to corporate income required by G.S. 105-130.5(a)(19), as enacted by this section. Based upon this report, the Revenue Laws Study Committee must determine the revenue-neutral corporate income tax rate and include this information in its report to the 2010 Session of the 2009 General Assembly.

SECTION 31.18.(e) This section does not affect the authority of the Department of Revenue under G.S. 105-130.6, G.S. 105-130.16, or any other statute to require a corporation to file a consolidated return or to determine the net income of a corporation properly attributable to this State. The General Assembly finds that an alternative method of addressing a corporation's attempt to use a real estate investment trust to shift income between entities and avoid State taxes is to require a captive REIT, as defined in G.S. 105-130.12 as amended by this section, to add to its federal taxable income the dividend paid deduction otherwise allowed under the Internal Revenue Code.

SECTION 31.18.(f) This section is effective for taxable years beginning on or after January 1, 2007.

ENHANCE 529 PLAN INCOME TAX DEDUCTION

SECTION 31.19.(a) Section 27 of S.L. 2006-221 is repealed.

SECTION 31.19.(b) Section 24.12(b) of S.L. 2006-66 reads as rewritten:

"**SECTION 24.12.(b)** This section is effective for taxable years beginning on or after January 1, ~~2006, and is repealed for taxable years beginning on or after January 1, 2011.~~2006."

SECTION 31.19.(c) G.S. 105-134.6(d)(4) reads as rewritten:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

…

(4) A taxpayer ~~whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this subdivision~~ may deduct from taxable income the amount, not to exceed ~~seven hundred fifty dollars ($750.00),~~two thousand five hundred dollars ($2,500), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is ~~one thousand five hundred dollars ($1,500).~~five thousand dollars ($5,000).

~~**Filing Status**~~	~~**AGI**~~
~~Married, filing jointly~~	~~$100,000~~
~~Head of Household~~	~~80,000~~

~~Single~~	~~60,000~~
~~Married, filing separately~~	~~50,000~~"

SECTION 31.19.(d) Effective for taxable years beginning on or after January 1, 2012, G.S. 105-134.6(d)(4), as rewritten by subsection (c) of this section, reads as rewritten:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

…

(4) A taxpayer whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this subdivision may deduct from taxable income the amount, not to exceed two thousand five hundred dollars ($2,500), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars ($5,000).

Filing Status	**AGI**
Married, filing jointly	$100,000
Head of household	80,000
Single	60,000
Married, filing separately	50,000"

SECTION 31.19.(e) Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2007. The remainder of this section is effective when it becomes law.

SALES TAX REFUND – RESEARCH SUPPLIES

SECTION 31.20.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

…

(33a) Analytical services. – Testing laboratories that are included in national industry 541380 of NAICS or medical laboratories that are included in national industry 621511 of NAICS."

SECTION 31.20.(b) G.S. 105-164.14 is amended by adding a new subsection to read:

"(n) Analytical Services Supplies. – A taxpayer engaged in analytical services in this State is allowed a refund of fifty percent (50%) of the eligible amount of sales and use tax paid by it in this State on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use taxes paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year. A request for a refund must be in writing and must include any information and documentation that the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred."

SECTION 31.20.(c) Subsection (b) of this section becomes effective July 1, 2007, and applies to purchases made on or after that date. The remainder of this section is effective when it becomes law.

WORK OPPORTUNITY TAX CREDIT

SECTION 31.21.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16G. Work Opportunity Tax Credit.**

A taxpayer who is allowed a federal tax credit under Part IV, Subpart F of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to six percent (6%) of the amount of credit allowed under the Code."

SECTION 31.21.(b) This section is effective for taxable years beginning on or after January 1, 2007.

DATACENTER SALES TAX EXEMPTION

SECTION 31.22.(a) G.S. 105-187.50 reads as rewritten:

"§ **105-187.50. Definitions.**

The definitions in G.S 105-164.3 apply in this Article. In addition, the following definitions apply in this Article:

(1) Concurrently maintainable. – Capable of having any capacity component or distribution element serviced or repaired on a planned basis without interrupting or impeding the performance of the computer equipment.

(2) Eligible datacenter. – A facility that provides infrastructure for hosting or data processing services and satisfies each of the following conditions:

a. The facility's power and cooling systems are created and maintained to be concurrently maintainable and include redundant capacity components and multiple distribution paths serving the computer equipment at the facility. The facility must have multiple distribution paths serving the computer equipment; however, a single distribution path may serve the computer equipment at any one time.

b. The Secretary of Commerce has made a written determination of the following:

1. For facilities that are located in a development tier one area at the time of application for the written determination, that at least one hundred fifty million dollars ($150,000,000) in private funds has been or will be invested in improvements to real property or installed datacenter machinery and equipment, or a combination thereof, within five years of the date on which the first qualifying improvement is made, regardless of any subsequent change in county development tier status.

2. For facilities that are not located in a development tier one area at the time of application for the written determination, that at least three hundred million dollars ($300,000,000) in private funds has been or will be invested in improvements to real property or installed datacenter machinery and equipment, or a combination thereof, within five years of the date on which the first

qualifying improvement is made, regardless of any subsequent change in county development tier status.

c. The facility satisfies the wage standard and health insurance requirements of G.S. 105-129.83.

(3) Multiple distribution paths. – A series of distribution paths configured to ensure that failure on one distribution path does not interrupt or impede other distribution paths.

(4) Redundant capacity components. – Components beyond those required to support the computer equipment."

SECTION 31.22.(b) Article 5F of Chapter 105 of the General Statutes is amended by adding a section to read:

"**§ 105-187.51C. Tax imposed on datacenter machinery and equipment.**

(a) Tax. – A privilege tax is imposed on an eligible datacenter, other than one as defined in G.S. 105-164.3(8e), that purchases machinery or equipment to be located and used at the datacenter that is capitalized for tax purposes under the Code and is used either:

(1) For the provision of datacenter services, including equipment cooling systems for managing the performance of the datacenter property; hardware and software for distributed and mainframe computers and servers; data storage devices; network connectivity equipment and peripheral components and systems.

(2) For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.

(b) Rate. – The tax is one percent (1%) of the sales price of the eligible equipment and machinery. The maximum tax is eighty dollars ($80.00) per article.

(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is not timely made, then the rate provided under this section is forfeited. If the required level of investment is timely made but any eligible machinery and equipment is not located and used at an eligible datacenter, then the rate provided for that machinery and equipment under this subdivision is forfeited. A taxpayer that forfeits a rate under this subdivision is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the combined general rate from the date the taxes would otherwise have been due, plus interest at the rate established under G.S. 105-241.1(i). If the forfeiture is triggered due to the lack of a timely investment required by this section, then interest is computed from the date the sales or use tax would otherwise have been due. For all other forfeitures, interest is computed at the combined general rate from the time as of which the machinery or equipment was put to a disqualifying use. A credit is allowed against the sales or use tax owed as a result of the forfeiture provisions of this subsection for privilege taxes paid pursuant to this section. For purposes of applying this credit, the fact that payment of the privilege tax occurred in a period outside the statute of limitations provided under G.S. 105-266 shall not be considered. Interest shall not be computed against the amount of taxes offset by this credit. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236.

(d) Sunset. – This section expires for sales occurring on or after July 1, 2013."

SECTION 31.22.(c) This section becomes effective October 1, 2007, and applies to sales made on or after that date.

TAX INCENTIVE FOR RAILROAD INTERMODAL FACILITY

SECTION 31.23.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3K.

"Tax Incentives for Railroad Intermodal Facilities.

"**§ 105-129.95. Definitions.**

The following definitions apply in this Article:

(1) Costs of construction. – The costs of acquiring and improving land, constructing buildings and other structures, and equipping the facility. In the case of property owned or leased by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code.

(2) Eligible railroad intermodal facility. – A railroad intermodal facility whose costs of construction exceed thirty million dollars ($30,000,000).

(3) Intermodal facility. – A facility where freight is transferred from one mode of transportation to another.

(4) Railroad intermodal facility. – An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation.

"**§ 105-129.96. Credit for constructing a railroad intermodal facility.**

(a) Credit. – A taxpayer that constructs or leases an eligible railroad intermodal facility in this State and places it in service during the taxable year is allowed a tax credit equal to fifty percent (50%) of all amounts payable by the taxpayer towards the costs of construction or under the lease.

(b) Taxes Credited. – The credit provided in this section is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. The credit may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit must be claimed against the same tax.

"**§ 105-129.97. Substantiation.**

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Each taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"**§ 105-129.98. Reports.**

The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer, for the 12-month period ending the preceding December 31:

(1) The number of taxpayers that claimed a credit allowed in this Article.

(2) The amount of each credit claimed and the taxes against which it was applied.

(3) The total cost to the General Fund of the credits claimed.

"**§ 105-129.99. Sunset.**

This Article is repealed effective for taxable years beginning on or after January 1, 2038."

SECTION 31.23.(b) G.S. 105-164.3 is amended by adding a new subdivision to read:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

…

(8f) Eligible railroad intermodal facility. – Defined in G.S. 105-129.95."

SECTION 31.23.(c) G.S. 105-164.13 is amended by adding a new subdivision to read:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

…

(56) Sales to the owner or lessee of an eligible railroad intermodal facility of intermodal cranes, intermodal hostler trucks, and railroad locomotives that reside on the premises of the facility and are used at the facility."

SECTION 31.23.(d) G.S. 105-164.14 is amended by adding a new subsection to read:

"(n) Eligible Railroad Intermodal Facilities. – The owner or lessee of an eligible railroad intermodal facility is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on these items is considered tax paid by the owner or lessee. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred."

SECTION 31.23.(e) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2007, and applies to eligible railroad intermodal facilities placed into service on or after January 1, 2007. Subsections (b) through (d) of this section become effective January 1, 2007, and apply to sales made on or after that date. The remainder of this section is effective when it becomes law.

FIREFIGHTER/RESCUE SQUAD TAX DEDUCTION

SECTION 31.24.(a) G.S. 105-134.6(d) is amended by adding a new subdivision to read:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

…

(6) A taxpayer who is an eligible firefighter or an eligible rescue squad worker may deduct from taxable income the sum of two hundred fifty dollars ($250.00). In the case of a married couple filing a joint return, each spouse may qualify separately for the deduction allowed under this subdivision. In order to claim the deduction allowed under this

subdivision, the taxpayer must submit with the tax return any documentation required by the Secretary. An individual may not claim a deduction as both an eligible firefighter and as an eligible rescue squad worker in a single taxable year. The following definitions apply in this subdivision:

a. Eligible firefighter. – An unpaid member of a volunteer fire department who attended at least 36 hours of fire department drills and meetings during the taxable year.

b. Eligible rescue squad worker. – An unpaid member of a volunteer rescue or emergency medical services squad who attended at least 36 hours of rescue squad training and meetings during the taxable year."

SECTION 31.24.(b) This section is effective for taxable years beginning on or after January 1, 2007.

PART XXXII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 32.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

COMMITTEE REPORT

SECTION 32.2.(a) The Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets, dated July 27, 2007, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, or the former Executive Budget Act, Article 1 of Chapter 143 of the General Statutes, as appropriate, for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 32.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2007-2009 fiscal biennium is a line-item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources, including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The Director of the Budget submitted the itemized budget requests to the General Assembly in February 2007, in the documents "The North Carolina State Budget Summary of Recommendations 2007-2009" and "The North Carolina State Budget 2007-2009 Recommended Operating Budget With Results-Based Information" volumes one through six. The beginning appropriation for the 2007-2008 fiscal year and the 2008-2009 fiscal year for the various departments, institutions, and other spending agencies of the State is referenced in Tables 3 and 4 of the Summary of Recommendations document as the recommended continuation budget.

SECTION 32.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

MOST TEXT APPLIES ONLY TO THE 2007-2009 FISCAL BIENNIUM

SECTION 32.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2007-2009 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2007-2009 fiscal biennium.

EFFECT OF HEADINGS

SECTION 32.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

SEVERABILITY CLAUSE

SECTION 32.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 32.6. Except as otherwise provided, this act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law upon approval of the Governor at 11:22 a.m. on the 31st day of July, 2007.

Session Law 2007-324 **House Bill 562**

AN ACT TO AUTHORIZE THE TOWN OF MORRISVILLE TO ANNEX CERTAIN PROPERTIES CURRENTLY TOTALLY SURROUNDED BY THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-48, a municipality to which that section applies may adopt ordinances annexing property that, on February 15, 2007, was completely enclosed by the corporate limits of the municipality, if the ordinance makes a finding that the total acreage being annexed is less than five percent (5%) of the total acreage within the corporate limits of the municipality prior to the annexation and also either:

(1) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation is necessary for the orderly growth and development of the municipality; or

(2) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation improves the ability to provide public safety services.

SECTION 2. The procedure for recording any annexation under this act is as provided in G.S. 160A-51.

SECTION 3. Any annexation ordinance adopted under this act shall be adopted before December 31, 2017.

SECTION 4. This act applies only to the Town of Morrisville.

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law on the date it was ratified.

Session Law 2007-325 **House Bill 1415**

AN ACT TO PROVIDE THAT A MEMBER OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM SHALL NOT BE DENIED SHORT-TERM DISABILITY BENEFITS DUE TO AN ABSENCE FOR MILITARY SERVICE AND TO AMEND THE LAW PROVIDING LONG-TERM DISABILITY BENEFITS FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-105(a) reads as rewritten:

"(a) Any participant who becomes disabled and is no longer able to perform his usual occupation may, after at least 365 calendar days succeeding his date of initial employment as a teacher or employee and at least one year of contributing membership service, receive a benefit commencing on the first day succeeding the waiting period; provided that the participant's employer and attending physician shall certify that such participant is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter; provided further that the requirement for one year of contributing membership service must have been earned within 36 calendar months immediately preceding the date of disability and further, salary continuation used during the period as provided in G.S. 135-104 shall count toward the aforementioned one year requirement. <u>As to the requirement that a participant applying for short term disability benefits have at least one year of contributing membership service within the 36 calendar months immediately preceding the date of disability, a participant who would have qualified for a benefit under this section but for service in the uniformed services shall not be denied a benefit under this section because of that interruption for military service provided all other requirements of this section are met.</u>

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article."

SECTION 2. G.S. 135-106 reads as rewritten:

"§ **135-106. Long-term disability benefits.**

(a) **(Effective August 1, 2007)** Upon the application of a beneficiary or participant or of his legal representative or any person deemed by the Board of Trustees to represent the participant or beneficiary, any beneficiary or participant who has had five or more years of membership service may receive long-term disability benefits from the Plan upon approval by the Board of Trustees, commencing on the first day succeeding the conclusion of the short-term disability period provided for in

G.S. 135-105, provided the beneficiary or participant makes application for such benefit within 180 days after the short-term disability period ceases, after salary continuation payments cease, or after monthly payments for Workers' Compensation cease, whichever is later; Provided, that the beneficiary or participant withdraws from active service by terminating employment as a teacher or State employee; Provided, that the Medical Board shall certify that such beneficiary or participant is ~~unable to perform any occupation or employment commensurate to the beneficiary's or participant's education, training, or experience, which is available in the same commuting area for State employees or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than sixty-five percent (65%) of that beneficiary's or participant's predisability earnings,~~ mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, and that such incapacity is likely to be permanent; Provided further that the Medical Board shall not certify any beneficiary or participant as disabled who is in receipt of any payments on account of the same incapacity which existed when the beneficiary first established membership in the Retirement System. The Board of Trustees may extend this 180-day filing requirement upon receipt of clear and convincing evidence that application was delayed through no fault of the disabled beneficiary or participant and was delayed due to the employers' miscalculation of the end of the 180-day filing period. However, in no instance shall the filing period be extended beyond an additional 180 days.

The Board of Trustees may require each beneficiary who becomes eligible to receive a long-term disability benefit to have an annual medical review or examination for the first five years and thereafter once every three years after the commencement of benefits under this section. However, the Board of Trustees may require more frequent examinations and upon the advice of the Medical Board shall determine which cases require such examination. Should any beneficiary refuse to submit to any examination required by this subsection or by the Medical Board, his long-term disability benefit shall be suspended until he submits to an examination, and should his refusal last for one year, his benefit may be terminated by the Board of Trustees. If the Medical Board finds that a beneficiary is no longer mentally or physically incapacitated for the further performance of duty, the Medical Board shall so certify this finding to the Board of Trustees, and the Board of Trustees may terminate the beneficiary's long-term disability benefits effective on the last day of the month in which the Medical Board certifies that the beneficiary is no longer disabled.

As to the requirement of five years of membership service, any participant or beneficiary who does not have five years of membership service within the 96 calendar months prior to conclusion of the short-term disability period or cessation of salary continuation payments, whichever is later, shall not be eligible for long-term disability benefits.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article.

(b) After the commencement of benefits under this section, the benefits payable under the terms of this section during the first 36 months of the long-term disability period shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of

compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars ($3,900) per month reduced by any primary Social Security disability benefits and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal ~~Veterans Administration~~ Department of Veterans Affairs, any other federal agency or any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars ($10.00) a month. However, a disabled participant may elect to receive any salary continuation as provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall not extend the first 36 consecutive calendar months of the long-term disability period. An election to receive any salary continuation for any part of any given day shall be in lieu of any long-term benefit payable for that day, provided further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any long-term benefit otherwise payable. ~~Notwithstanding the foregoing, upon the completion of four years from the conclusion of the waiting period as provided in G.S. 135-104, the beneficiary's benefit shall be reduced by an amount, as determined by the Board of Trustees, equal to a primary Social Security disability benefit to which the beneficiary might be entitled had the beneficiary been awarded Social Security disability benefits.~~ Provided that, in any event, a beneficiary's benefit shall be reduced during the first 36 months of the long-term disability period by an amount, as determined by the Board of Trustees, equal to a primary Social Security retirement benefit to which the beneficiary might be entitled.

After 36 months of long-term disability, no further benefits are payable under the terms of this section unless the member has been approved and is in receipt of primary Social Security disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars ($3,900) per month reduced by the primary Social Security disability benefits and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, for payments from any other federal agency, or for any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars ($10.00) a month.

Notwithstanding the foregoing, the long-term disability benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the earliest date at which the beneficiary is eligible for an unreduced service retirement allowance from the Retirement System, at which time the beneficiary would receive a retirement allowance calculated on the basis of the beneficiary's average final compensation at the time of disability as adjusted to reflect compensation

increases subsequent to the time of disability and the creditable service accumulated by the beneficiary, including creditable service while in receipt of benefits under the Plan. In the event the beneficiary has not been approved and is not in receipt of a primary Social Security disability benefit, the long-term disability benefit shall cease after the first 36 months of the long-term disability period. However, a beneficiary shall be entitled to a restoration of the long-term disability benefit in the event the Social Security Administration grants a retroactive approval for primary Social Security disability benefits with a benefit effective date within the first 36 months of the long-term disability period. In such event, the long-term disability benefit shall be restored retroactively to the date of cessation.

(c) Notwithstanding the foregoing, a beneficiary in receipt of long-term disability benefits who has earnings during the long-term disability period shall have his long-term disability benefit reduced when the sum of the net long-term disability benefit and the earnings equals one hundred percent (100%) of monthly compensation adjusted as provided under G.S. 135-108. The net long-term benefit shall mean the long-term benefit amount payable as calculated under (b) above, after the reduction for Social Security benefits and Workers' Compensation benefits to which the beneficiary might be ~~entitled.~~ entitled, and after the reduction for any monthly payments from the federal Department of Veterans Affairs, for payments from any other federal agency, or for any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. The net long-term disability benefit shall be reduced dollar-for-dollar for the amount of earnings in excess of the one hundred percent (100%) monthly limit. Any beneficiary exceeding the earnings limitations shall notify the Plan by the fifth of the month succeeding the month in which the earnings were received of the amount of earnings in excess of the limitations herein provided. Failure to report excess earnings may result in a suspension or termination of benefits as determined by the Board of Trustees.

(c1) During the long-term disability period, a beneficiary may return to service for trial rehabilitation for periods of not greater than 36 months of continuous service. Such return will not cause the beneficiary to become a participant and will not require a new waiting period or short-term disability period to commence regardless of whether the beneficiary is unable to continue in service due to the same incapacity or a different incapacity.

A beneficiary who, during a period of trial rehabilitation, is unable to continue in service may be entitled to a restoration of the long-term disability benefit provided that the Medical Board certifies that the beneficiary is disabled in accordance with the laws in effect at the time of the Board's original approval for long-term disability benefits, either due to the same or a different incapacity, notwithstanding the requirement the incapacity has been continuous. In the event that the Medical Board determines that the long-term disability benefit should be restored, the restored benefit should be calculated in accordance with G.S. 135-106(b); should include any post-disability benefit adjustments as provided by G.S. 135-108; ~~and should not be reduced by an amount equal to a primary Social Security disability benefit to which the beneficiary might be entitled had the beneficiary been awarded Social Security benefits until the beneficiary has been eligible to receive long-term disability benefits for 36 months, including any period the beneficiary elected to receive any salary continuation in lieu of the long-term benefit, but not including any period of trial rehabilitation.~~ and shall continue as long as the beneficiary remains disabled until the beneficiary has received a total of 36 long-term disability payments. Continuation of long-term disability benefit payments

beyond 36 total payments shall be dependent upon approval for primary Social Security disability benefits as required by G.S. 135-106(b).

A beneficiary who returns to service for a period of trial rehabilitation and who has continued in service for greater than 36 continuous months shall again become a participant, and any subsequent incapacity shall be treated as a new incapacity causing a new waiting period to begin. Such a beneficiary may be entitled to additional long-term disability benefits on account of the new incapacity provided the beneficiary meets all other requirements notwithstanding the requirement of five years of membership service within the 96 calendar months prior to becoming disabled or the cessation of continuous salary continuation payments.

(d) Notwithstanding the foregoing, a participant or beneficiary who has applied for and been approved by the Medical Board for long-term disability benefits may make an irrevocable election, within 90 days from the date of notification of such approval, and prior to receipt of any long-term disability benefit payments, to forfeit all pending and accrued rights to the long-term disability benefit including any ancillary benefits and retire on an early service retirement allowance or receive a return of accumulated contributions from the Retirement System."

SECTION 3. G.S. 135-107 reads as rewritten:

"§ **135-107. Optional Retirement Program.**

Any participant of the Optional Retirement Program who becomes a beneficiary under the Plan shall be eligible to receive long-term disability benefits so long as the beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the time the beneficiary would first qualify for an unreduced service retirement benefit had the beneficiary elected to be a member of the Teachers' and State Employees' Retirement System, and shall receive no service accruals as otherwise provided members of the Retirement System under the provisions of G.S. 135-4(y). In the event a beneficiary who was a participant in the Optional Retirement Program has not been approved and is not in receipt of a primary Social Security disability benefit, the long-term disability benefit shall cease after the first 36 months of the long-term disability period. However, a beneficiary shall be entitled to a restoration of the long-term disability benefit in the event the Social Security Administration grants a retroactive approval for primary Social Security disability benefits with a benefit effective date within the first 36 months of the long-term disability period. In such event, the long-term disability benefit shall be restored retroactively to the date of cessation."

SECTION 4. Sections 2 and 3 of this act become effective August 1, 2007, but apply only to persons who have less than five years of membership service as of July 31, 2007. The remainder of this act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 11:20 p.m. on the 31st day of July, 2007.

Session Law 2007-326 **House Bill 956**

AN ACT TO MODIFY THE PROVISION THAT PERMITS RETIRED TEACHERS TO RETURN TO THE CLASSROOM WITHOUT A LOSS OF RETIREMENT BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-3(8)c. reads as rewritten:

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

The computation of postretirement earnings of a beneficiary under this sub-subdivision, who retired on or before October 1, 2007, and who has been retired at least six months and has not been employed in any capacity with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek in a public school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, who retired after October 1, 2007, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; and who has been retired at least six months and has not been employed in any capacity with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek in a public school. The Department of Public Instruction shall

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

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

SECTION 2. G.S. 115C-325(5a), which expires August 1, 2007, is reenacted on that date to read:

"(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who retired on or before October 1, 2007, and who has been retired at least six months, has not been employed in any capacity for at least six months, immediately preceding the effective date of reemployment, is determined by a local board of education or a charter school to have had satisfactory performance during the last year of employment by a local board of education or a charter school, and who is employed to teach as provided in G.S. 135-3(8)c. A retired teacher at a school other than a charter school shall be treated the same as a probationary teacher except that (i) a retired teacher is not eligible for career status and (ii) the performance of a retired teacher who had attained career status prior to retirement shall be evaluated in accordance with a local board of education's policies and procedures applicable to career teachers.

"Retired teacher" also means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who retired after October 1, 2007, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; who has been retired at least six months, has not been employed in any capacity for at least six months immediately preceding the effective date of reemployment, is determined by a local board of education or a charter school to have had satisfactory performance during the last year of employment by a local board of education or a charter school, and who is employed to teach as provided in G.S. 135-3(8)c. A retired teacher at a school other than a charter school shall be treated the same as a probationary teacher except that (i) a retired teacher is not eligible for career status and (ii) the performance of a retired teacher who had attained career status prior to retirement shall be evaluated in accordance with a local board of education's policies and procedures applicable to career teachers."

SECTION 3.(a) Subsection (d) of Section 28.24 of S.L. 1998-212, as rewritten by Section 28.10 of S.L. 2002-126, subsection (a) of Section 31.18A of S.L. 2004-124, Section 7A.1 of S.L. 2005-144, and subsection (a) of Section 7 of S.L. 2007-145, reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires ~~August 1, 2007.~~ October 1, 2007."

SECTION 3.(b) The introductory language of Section 67 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (b) of Section 31.18A of

S.L. 2004-124, Section 7A.2 of S.L. 2005-144, and subsection (b) of Section 7 of S.L. 2007-145, reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through ~~August 1, 2007,~~ October 1, 2007, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

SECTION 3.(c) Subsection (b) of Section 67.1 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, subsection (c) of Section 31.18A of S.L. 2004-124, Section 7A.3 of S.L. 2005-144, and subsection (c) of Section 7 of S.L. 2007-145, reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires ~~August 1, 2007.~~ October 1, 2007."

SECTION 3.(d) Subsection (c) of Section 32.25 of S.L. 2001-424, as rewritten by Section 28.10 of S.L. 2002-126, subsection (d) of Section 31.18A of S.L. 2004-124, Section 7A.4 of S.L. 2005-144, and subsection (d) of Section 7 of S.L. 2007-145, reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires ~~August 1, 2007.~~ October 1, 2007."

SECTION 3.(e) Section 57(c) of S.L. 2004-199, as amended by Section 29.28(d) of S.L. 2005-276 and subsection (e) of Section 7 of S.L. 2007-145, reads as rewritten:

"**SECTION 57.(c)** This section expires ~~August 1, 2007.~~ October 1, 2007."

SECTION 3.(f) Section 25 of S.L. 2006-226, as amended by subsection (f) of Section 7 of S.L. 2007-145, reads as rewritten:

"**SECTION 25.(b)** This section becomes effective ~~August 1, 2007.~~ October 1, 2007."

SECTION 4. Notwithstanding any other provision of law, effective July 1, 2007, each local school administrative unit shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit shall report monthly to the Retirement Systems Division on payments made pursuant to this section.

Notwithstanding any other provision of law, effective July 1, 2007, any portion of the payment made by a local school administrative unit to a reemployed teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that exceeds the State-supported salary level for that position shall be paid from local funds.

SECTION 5. If the Internal Revenue Service determines that the provisions of G.S. 135-3(8)c. relating to the computation of postretirement earnings of retired teachers jeopardize the status of the Teachers' and State Employees' Retirement System of North Carolina under the Internal Revenue Code, then the final three paragraphs of G.S. 135-3(8)c. are repealed.

SECTION 6. Section 3 of this act becomes effective July 31, 2007. The remainder of this act becomes effective October 1, 2007, and expires October 1, 2009.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 11:21 p.m. on the 31st day of July, 2007.

Session Law 2007-327 **Senate Bill 181**

AN ACT TO AUTHORIZE THE TOWN OF CLAYTON TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE TOWN'S PUBLIC NUISANCE ORDINANCE AND TO ALLOW THE TOWN OF CLAYTON TO ANNEX BY VOLUNTARY PETITION AREAS THAT ARE MORE THAN THREE MILES FROM THE TOWN'S PRIMARY CORPORATE LIMITS IF THE AREAS ARE CONTIGUOUS TO THE TOWN'S SATELLITE CORPORATE LIMITS

The General Assembly of North Carolina enacts:

SECTION 1. A municipality may notify a chronic violator of the municipality's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three times under any provision of the public nuisance ordinance.

SECTION 2. G.S. 160A-58.1(b)(1) shall not apply to the Town of Clayton if the area proposed for annexation is contiguous to the Town's satellite corporate limits. For purposes of this act, the term "satellite corporate limits" means the corporate limits of any noncontiguous area annexed pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes by the Town of Clayton or pursuant to a local act enacted by the General Assembly authorizing or effecting noncontiguous annexations for the Town of Clayton.

SECTION 3. This act is effective when it becomes law and applies to the Town of Clayton only.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-328 **Senate Bill 398**

AN ACT TO ALLOW THE CITIZENS OF UNION COUNTY TO DETERMINE IF DISTRICT REPRESENTATION SHOULD BE IMPLEMENTED FOR THE UNION COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 4 of Article 4 of Chapter 153A of the General Statutes is suspended until January 1, 2012.

SECTION 2. Effective the first Monday in December 2008, the membership of the Union County Board of Commissioners shall be increased by two members. Effective the first Monday in December 2008, the membership of the Union County Board of Commissioners shall consist of two members elected at large and five members elected from electoral districts as set out in this act.

SECTION 3. For the purpose of nominating and electing members of the Union County Board of Commission in 2008, and periodically thereafter, Union County

shall be divided into the following districts with each district electing one commissioner:

District 1: Union County: Precinct 01, Precinct 02, Precinct 04, Precinct 08: Tract 206: Block Group 5: Block 5000, Block 5019, Block 5020, Block 5021, Block 5035; Tract 207: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1035, Block 1040; Block Group 2: Block 2012; Block Group 3: Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033; Precinct 09, Precinct 10, Precinct 25: Tract 206: Block Group 5: Block 5034, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041; Tract 207: Block Group 3: Block 3025, Block 3026, Block 3027, Block 3028, Block 3038, Block 3039; Precinct 27: Tract 207: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3034, Block 3035, Block 3036, Block 3037; Tract 208: Block Group 4: Block 4026, Block 4028, Block 4029, Block 4034, Block 4035, Block 4036, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4998; Precinct 34: Tract 207: Block Group 2: Block 2010, Block 2011, Block 2013, Block 2014, Block 2038, Block 2039; Precinct 36: Tract 207: Block Group 2: Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2040, Block 2043, Block 2044; Tract 208: Block Group 1: Block 1001, Block 1002, Block 1028, Block 1037; Block Group 2: Block 2009, Block 2036, Block 2037; Block Group 3: Block 3000, Block 3003, Block 3012, Block 3013; Precinct 43.

District 2: Union County: Precinct 03, Precinct 07: Tract 205: Block Group 4: Block 4011, Block 4012, Block 4013, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034; Tract 209.02: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2013; Tract 210.03: Block Group 3: Block 3000, Block 3001, Block 3041, Block 3042, Block 3043, Block 3044; Precinct 08: Tract 207: Block Group 1: Block 1009, Block 1010, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1036, Block 1037, Block 1038, Block 1039; Block Group 2: Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2041, Block 2042, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059; Precinct 11, Precinct 23, Precinct 24, Precinct 25: Tract 206: Block Group 4: Block 4028, Block 4034, Block 4035, Block 4036, Block 4038, Block 4039, Block 4040, Block 4997, Block 4998, Block 4999; Tract 207: Block Group 4: Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061,

Block 4062, Block 4066, Block 4998, Block 4999; Tract 209.01: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038; Precinct 26, Precinct 27: Tract 207: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4052, Block 4053, Block 4054; Tract 208: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4011, Block 4037, Block 4038, Block 4039; Block Group 5; Tract 209.01: Block Group 1: Block 1007, Block 1008; Precinct 34: Tract 201: Block Group 2: Block 2047, Block 2048; Block Group 3: Block 3012, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3998, Block 3999; Tract 206: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1029, Block 1030, Block 1998, Block 1999; Tract 207: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009; Precinct 36: Tract 201: Block Group 1: Block 1029, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063; Block Group 2: Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055; Tract 208: Block Group 1: Block 1000, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1038; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2010, Block 2011, Block 2017, Block 2019, Block 2020; Block Group 3: Block 3001, Block 3002, Block 3004, Block 3006, Block 3019, Block 3046, Block 3047, Block 3056, Block 3057.

District 3: Union County: Precinct 14, Precinct 15, Precinct 16, Precinct 29, Precinct 35, Precinct 37, Precinct 38, Precinct 40.

District 4: Union County: Precinct 05, Precinct 06, Precinct 12, Precinct 13, Precinct 17, Precinct 30, Precinct 32, Precinct 39, Precinct 42.

District 5: Union County: Precinct 07: Tract 210.03: Block Group 1: Block 1021, Block 1022, Block 1026, Block 1027, Block 1042, Block 1043, Block 1044, Block 1045; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3045; Precinct 18, Precinct 19, Precinct 20, Precinct 21, Precinct 22 & 33, Precinct 28, Precinct 31, Precinct 41.

SECTION 4. The terms of office of any commissioner elected prior to the effective date of this act shall not be altered. In 2008 and quadrennially thereafter, one member shall be elected at large by all of the qualified voters of Union County to serve a four-year term, one member shall be a resident of District 1 and be elected by the qualified voters of that district to serve a four-year term, one member shall be a resident of District 2 and be elected by the qualified voters of that district to serve a four-year term, and one member shall be a resident of District 3 and be elected by the qualified voters of that district to serve a four-year term. In 2010 and quadrennially thereafter, one member shall be elected at large by all of the qualified voters of Union County to serve a four-year term, one member shall be a resident of District 4 and be elected by the qualified voters of that district to serve a four-year term, and one member shall be a resident of District 5 and be elected by the qualified voters of that district to serve a four-year term.

SECTION 5. In accordance with G.S. 153A-22, the electoral districts as set out in Section 2 of this act may be redrawn as required by federal and State law following each decennial federal census.

SECTION 6. The Union County Board of Elections shall place on the ballot, on the first Tuesday following the first Monday in November 2007, a referendum for the purpose of submission to the qualified voters of Union County the question of whether or not the structure of the board of county commissioners shall be altered to increase the number of commissioners to seven and create electoral districts. The Union County Board of Elections shall adopt a procedure to provide for legal notice of the referendum consistent with the intent of Chapter 163 of the General Statutes.

SECTION 7. In the election, the ballot question shall be separate from other ballot questions, and the question on the ballot shall be:

"Shall the structure of the county board of commissioners be altered such that the number of commissioners is increased to seven and electoral districts are created.

[ ] FOR [ ] AGAINST"

SECTION 8. In the election, if a majority of the votes are cast "YES," Sections 1 through 5 of this act shall become effective on the date that the Union County Board of Elections certifies the results of the election. Otherwise, Sections 1 through 5 of this act shall have no force and effect.

SECTION 9. This act applies only to Union County.

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-329 **Senate Bill 15**

AN ACT TO INCORPORATE THE TOWN OF HAMPSTEAD.

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF HAMPSTEAD.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers**. The inhabitants of the Town of Hampstead are a body corporate and politic under the name 'Town of Hampstead.' The Town of Hampstead has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Hampstead are as follows:

Pender County: Precinct Topsail Lower: Tract 9802: Block Group 2: Block 2097, Block 2098, Block 2109, Block 2110, Block 2111, Block 2112, Block 2113; Block Group 5: Block 5008, Block 5009, Block 5010, Block 5011, Block 5013, Block 5014, Block 5015, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5996, Block 5997, Block 5998; Precinct Topsail Upper: Tract 9801: Block Group 1: Block 1078, Block 1996; Tract 9802: Block Group 4, Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5012, Block 5016, Block 5062, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5070, Block 5071, Block 5072, Block 5073, Block 5074, Block 5075, Block 5999, and Pender County Tax Parcels: 3281-08-9797-0000, 3281-09-9499-0000, 3281-18-1827-0000, 3281-18-1995-0000, 3281-18-8879-0000, 3281-19-0526-0000, 3281-19-0624-0000, 3281-19-2053-0000, 3281-19-2436-0000, 3281-19-2519-0000, 3281-19-2785-0000, 3281-19-3121-0000, 3281-19-3218-0000, 3281-19-3906-0000, 3281-19-4134-0000, 3281-19-4202-0000, 3281-19-4331-0000, 3281-19-4612-000I, 3281-19-4612-000L, 3281-19-4910-0000, 3281-19-5342-0000, 3281-19-5461-0000, 3281-19-5499-0000, 3281-19-7513-0000, 3281-19-7859-0000, 3281-19-8097-0000, 3281-19-9270-0000, 3281-19-9924-0000, 3281-28-7365-0000, 3281-28-8182-0000, 3281-28-8634-0000, 3281-29-0236-0000, 3281-29-0393-0000, 3281-29-3232-0000, 3281-29-4277-0000, 3281-29-9256-0000, 3281-37-1934-0000, 3281-38-0964-0000, 3281-38-2487-0000, 3281-38-6558-0000, 3281-38-9801-0000, 3281-39-3461-0000, 3281-39-5112-0000, 3281-39-5694-0000, 3281-39-8202-0000, 3281-39-8570-0000, 3281-39-8835-0000, 3281-46-7779-0000, 3281-47-1321-0000, 3281-47-4074-0000, 3281-47-4653-0000, 3281-47-6960-0000, 3281-48-6273-0000, 3281-48-8488-0000, 3281-48-8764-0000, 3281-49-1676-0000, 3281-49-2013-0000, 3281-49-4344-0000, 3281-49-7003-0000, 3281-55-8865-0000, 3281-56-0599-0000, 3281-56-3297-0000, 3281-56-4738-0000, 3281-56-6565-0000, 3281-57-0896-0000, 3281-57-2158-0000, 3281-57-3612-0000, 3281-57-4972-0000, 3281-58-0272-0000, 3281-58-4667-0000, 3281-59-2159-0000,

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All roads within or abutted on two or more sides by the boundaries are included in the town boundaries. As used in this section, census descriptions are from the 2000 decennial federal census, and tax parcels are from the Pender County tax records as of July 1, 2007.

"Section 2.2. **Annexation.** (a) An annexation ordinance under G.S. 160A-37 or G.S. 160A-49 shall become effective only if approved by the voters of the area to be annexed in a referendum conducted as provided in subsection (b) of this section.

(b) The Town Council shall order the Pender County Board of Elections to call an election to determine whether or not the proposed territory shall be annexed to the Town. Within 100 days after receiving the order from the Town, the board of elections shall proceed to hold an election on the question.

The election shall be called by a resolution or resolutions of the board of elections which shall:

(1) Describe the territory proposed to be annexed to the Town as set out in the order of the Town.
(2) Provide that the matter of annexation of the territory shall be submitted to the vote of the qualified voters of the territory proposed to be annexed.
(3) Provide for registration of voters in the territory proposed to be annexed for the election in accordance with G.S. 163-288.2.

The resolution shall be published in one or more newspapers of Pender County once a week for 30 days prior to the closing of the registration books. All costs of holding the election shall be paid by the Town. Except as herein provided, the election shall be held under the same statutes, rules, and regulations as are applicable to elections in the Town.

In the election, the question on the ballot shall be:

'[ ] FOR [ ] AGAINST
Annexation.'

If a majority of the votes cast from the area proposed for annexation shall be 'For Annexation,' the annexation ordinance shall become effective as provided by this section and general law.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Hampstead shall be the Town Council which shall have five members.

"Section 3.2. **Temporary Officers.** Until the initial election of 2009 provided for by Article IV of this Charter, John K. Swann, Gary Poirier, Joseph K. Kimil, and Ellery Lee Murphy are appointed to the Town Council of the Town of Hampstead. The temporary officers shall appoint a qualified person to fill the remaining seat on the Council, and, after the appointment, the temporary officers shall elect from among their members a person to serve as Interim Mayor and a person to serve as Interim Mayor Pro Tempore. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial election is held. In addition to exercising the duties granted to the Town Council in this Charter and by general law, the temporary officers shall adopt an ordinance establishing the electoral districts for the Town as provided in Section 4.4 of this Charter. The ordinance establishing the electoral districts shall be adopted at least 30 days prior to the opening of candidate filing for the 2009 election and shall provide for three election districts of approximately equal population.

"Section 3.3. **Manner of Electing Council; Term of Office.** Two of the Council members shall be elected at large from the residents of the Town, and three shall be elected from each of Districts 1, 2, and 3 respectively, as provided in Article IV of this Charter. The qualified voters of the entire Town shall elect all the members of the Town Council, and, except as provided in this section, they shall serve four-year terms. In 2009, two Council members shall be elected at large, and one council member shall be elected from District 1, and they shall serve for four-year terms, and one Council member shall be elected from each of Districts 2 and 3 respectively, and they shall serve for two-year terms. In 2011, and quadrennially thereafter, one Council member shall be elected from each of Districts 2 and 3 respectively, and they shall serve for four-year terms. In 2013, and quadrennially thereafter, two members shall be elected at large, and one member shall be elected from District 1, and they shall serve for four-year terms. Vacancies on the Town Council shall be filled in accordance with G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The Mayor shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2009 and shall serve for a term of one year. Any member of the Town Council is eligible to serve successive one-year terms as Mayor, and the member shall be elected in the same manner in which the member was initially elected. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to matters involving the Town of Hampstead, and shall have the right to vote as a member of the Town Council on all matters before the Council. In the case of a vacancy in the office of Mayor, the remaining members of the Town Council shall choose from their own number a successor for the unexpired term.

"Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The Mayor Pro Tempore shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2009 and shall serve for a term of one year. Any member of the Town Council is eligible to serve successive one-year terms as Mayor Pro Tempore, and the member shall be elected in the same manner in which the member was initially elected. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of the Town Council present may elect a temporary chairman to preside in the absence. The Mayor Pro Tempore shall have the right to vote on all matters before the Town Council and shall be considered a member of the Town Council for all purposes.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes, with the first regular municipal election to be held in 2009.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"Section 4.4. **Regular Municipal Elections; District Boundaries.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. For purpose of the election of Town Council members, the Town is divided into three geographical subdivisions, known as districts, and all qualified voters of the Town may cast a vote for each seat. A written description or map showing the current boundaries of the three election districts shall be maintained in the office of the Town Clerk and shall be available for public inspection. The district boundaries may be amended periodically pursuant to the provisions of general law. Whenever areas are hereafter annexed and made part of the Town, the Town Council shall, by ordinance, redefine and rearrange the three election districts so as to include the annexed areas. The ordinance shall be adopted at least seven days prior to the opening of candidate filing for the municipal election next succeeding the date of any annexation and shall provide for three election districts of approximately equal population. In redefining and rearranging the election district lines, the Town Council shall follow as nearly as practical existing district lines.

"Section 4.5. **Residency Required.** Candidates for election to district seats on the Town Council shall reside in and represent their respective districts, but all candidates for Town Council shall be nominated and elected by all voters of the Town. Candidates

for election to at-large seats on the Town Council shall reside within the corporate limits of the Town in order to qualify to take, hold, and continue in the office.

"ARTICLE V. ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Mayor-Council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Town Council may direct.

"Section 5.3. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Town Council may direct.

"Section 5.4. **Other Administrative Officers and Employees.** The Town Council may authorize other offices and positions and appoint persons to fill the offices and positions. The Town Council may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Consolidation of Functions.** Where positions are not incompatible, the Town Council may combine in one person the powers and duties of two or more officers created or authorized by this Charter.

"Section 5.6. **Compensation of Mayor and Town Council; Temporary Officers.** The Mayor and members of the Town Council shall be reimbursed for ordinary and necessary expenses and may receive salary and honoraria only upon a majority vote of the qualified voters of the Town who vote on the question in a special referendum. The Temporary Officers, as described in Section 3.2 of this Charter, shall not receive a salary.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and fees authorized by general law. An affirmative vote equal to a majority of all the members of the Town Council shall be required to change the ad valorem tax rate from the rate established during the prior fiscal year.

"Section 6.2. **Budget.** From and after July 1, 2007, the citizens and property in the Town of Hampstead shall be subject to municipal taxes levied for the fiscal year beginning July 1, 2007, and, for that purpose, the Town shall obtain from Pender County a record of property in the area herein incorporated that was listed for taxes as of January 1, 2007. The Town may adopt a budget ordinance for fiscal year 2007-2008 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the Act insofar as is practical. For fiscal year 2007-2008, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 2007.

"Section 6.3. **Ad Valorem Taxes.** The ad valorem tax rate for the Town shall be $0.11/$100.00 valuation and shall not be increased by the Temporary Officers, which are described in Section 3.2 of this Charter. The Town Council shall not increase the ad valorem tax rate more than ten percent (10%) above the ad valorem tax rate initially established after incorporation of the Town of Hampstead without the vote or consent of

a majority of the qualified voters of the Town of Hampstead. The procedures of G.S. 160A-209 shall be followed for any such election.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Hampstead is authorized to adopt such ordinances as the Town Council deems necessary for the governance of the Town.

"ARTICLE VIII. SPECIAL PROVISIONS.

"Section 8.1. **Fire Protection.** The Town of Hampstead may contract with the Sloop Point Volunteer Fire Department and the Hampstead Volunteer Fire Department to provide fire protection for the Town. The contract terms and the amount paid by the Town of Hampstead to the Sloop Point Volunteer Fire Department and the Hampstead Volunteer Fire Department shall be mutually agreed upon and annually renewed by the Board of Directors for the Sloop Point Volunteer Fire Department and the Town Council and the Board of Directors for the Hampstead Volunteer Fire Department and the Town Council.

"Section 8.2. **Fire Protection District; Town Removed.** Effective June 30, 2008, the Town of Hampstead is removed from the Hampstead Fire Protection District and the Sloop Point Fire Protection District."

SECTION 2. The Pender County Board of Elections shall conduct an election on November 6, 2007, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Town of Hampstead the question of whether or not the area shall be incorporated as the Town of Hampstead. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 3. In the election, the question on the ballot shall be:

"[ ] FOR [ ] AGAINST

Incorporation of the Town of Hampstead."

SECTION 4. In the election, if a majority of the votes are cast "For the Incorporation of the Town of Hampstead," Section 1 of this act shall become effective on the date that the Pender County Board of Elections certifies the results of the election. Otherwise, Section 1 of this act shall have no force and effect.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-330 **Senate Bill 16**

AN ACT TO ALLOW THE TOWN OF BOILING SPRINGS TO USE WHEEL LOCKS TO ENFORCE PARKING REGULATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2003-240 reads as rewritten:

"**SECTION 3.** Section 1 of this act applies to the Towns of Boiling Springs, ~~Carolina Beach~~ Carolina Beach, and Wrightsville Beach only."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-331 **Senate Bill 384**

AN ACT TO AUTHORIZE GRANVILLE COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO MODIFY THE DISTRIBUTION FORMULA.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, is amended by adding a new subsection to read:

"(a1) Authorization of Additional Tax.

In addition to the tax authorized by subsection (a) of this section, the Granville County Board of Commissioners may levy an additional room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Granville County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

SECTION 2. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, reads as rewritten:

"(e) Distribution and Use of Tax Revenue.

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority shall distribute the funds as follows:

(1) First three percent (3%). – The Authority shall use at least two-thirds of the funds remitted to it under this ~~subsection~~ subdivision for tourism-related expenditures and shall use the remainder to promote travel and tourism in Granville County.~~County and shall use the remainder for tourism-related expenditures.~~

(2) Remainder. – The Authority shall use at least two-thirds of the funds remitted to it under this subdivision to promote travel and tourism and shall use the remainder for tourism expenditures.

~~The following definitions apply in this subsection:~~

~~(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.~~

~~(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.~~

~~(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.~~"

SECTION 3. Section 1 of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103, is amended by adding a new subsection to read:

"(h) Definitions.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

SECTION 4. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by S.L. 2000-103 and Section 3 of this act, reads as rewritten:

"(e) Distribution and Use of Tax Revenue.

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority shall ~~distribute the funds as follows:~~

~~(1) First Three Percent (3%). The Authority shall use at least two-thirds of the funds remitted to it under this subdivision for tourism-related expenditures and shall use the remainder to promote travel and tourism in Granville County.~~

~~(2) Remainder. The Authority shall~~ use at least two-thirds of the funds remitted to it under this ~~subdivision~~ subsection to promote travel and tourism and shall use the remainder for tourism-expenditures."

SECTION 5. Section 4 of this act becomes effective October 1, 2019. The remainder of this act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-332 **Senate Bill 489**

AN ACT TO MODIFY THE OCCUPANCY TAX OF THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

SECTION 1. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session Laws, Chapter 935 of the 1987 Session Laws, and Section 2 of S.L. 1997-361, reads as rewritten:

"**Section 2.** Lumberton Occupancy Tax. (a) Authorization and scope. – The Lumberton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) [Repealed August 1, 2000.]

(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~The tax collector may collect any unpaid taxes levied under this section through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The tax collector has the same enforcement powers concerning the tax imposed by this section as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.~~

(d) Distribution and use of ~~first three percent (3%)~~ tax revenue. – The City of Lumberton shall, on a quarterly basis, remit the net proceeds of the ~~first three percent (3%)~~ occupancy tax ~~authorized in subsection (a) of this section~~ to the Lumberton Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Lumberton and shall use the remainder for tourism-related expenditures. ~~Of the funds designated for tourism-related expenditures, the Authority shall remit the first one hundred fifteen thousand dollars ($115,000) to the Carolina Civic Center Foundation, Inc., for tourism-related expenditures. The Authority may use no more than twenty-three percent (23%) of the funds remitted to it under this subsection for salaries in carrying out these purposes and may use no more than ten percent (10%) of the funds remitted to it under this subsection for other administrative costs in carrying out these purposes.~~

(e) [Repealed August 1, 2000.]

(f) The following definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed ~~four percent (4%)~~ three percent (3%) of the first five hundred thousand dollars ($500,000) of the gross ~~proceeds.~~proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in ~~a~~ the city ~~by attracting~~or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures."

SECTION 2. Section 3 of S.L. 1997-361 reads as rewritten:

"**Section 3.** Lumberton Tourism Development Authority. (a) Appointment and membership. – When the Lumberton City Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the city, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the city. ~~members' terms of office and for the filling of vacancies on the Authority.~~

~~The Authority shall have eight members appointed by the city council and two ex officio, nonvoting members, as follows:~~

~~(1) Four individuals who own or operate a hotel or motel in the city.~~

~~(2) Four individuals who are currently active in the promotion of travel and tourism in the city.~~

~~(3) The Finance Officer for Lumberton, to serve ex officio.~~

~~(4) A member of the Lumberton City Council, designated by the city council, to serve ex officio.~~

The Lumberton City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under Section 2 of this act for the purposes provided in Section 2 of this act. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Lumberton City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Lumberton City Council may require."

SECTION 3. This act is effective when it becomes law. The Lumberton City Council has 30 days from the date the act becomes effective to ensure that the membership of the Authority is in compliance with this act.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-333 **Senate Bill 530**

AN ACT EXEMPTING THE CITY OF RALEIGH FROM COMPETITIVE BIDDING REQUIREMENTS WHEN LETTING CONTRACTS FOR APPARATUS, SUPPLIES, MATERIALS, OR EQUIPMENT USED AS PART OF ANY PILOT PROGRAM AUTHORIZED BY THE CITY COUNCIL TO TEST THE EFFICIENCY AND EFFECTIVENESS OF LIGHT EMITTING DIODE TECHNOLOGIES AND PERMITTING THE CITY OF RALEIGH TO LEVY A MOTOR VEHICLE PRIVILEGE TAX OF UP TO TWENTY DOLLARS FOR EACH RESIDENT VEHICLE LOCATED IN THE CITY.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Raleigh may contract for apparatus, supplies, materials, or equipment that will be used as part of any pilot program authorized by the City Council to test the efficiency and effectiveness of light emitting diode technology for energy conservation without being subject to the requirements of G.S. 143-129, 143-131, and 143-132. Notwithstanding any provision of law, the City may award a contract under this section in its sole discretion. The authority granted herein shall expire on July 1, 2009.

SECTION 2.(a) Chapter 229 of the 1991 Session Laws is repealed.

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

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ twenty dollars ($20.00) per year upon any vehicle resident in the city or town. The proceeds of the tax up to fifteen dollars ($15.00) may be used for any lawful purpose. The proceeds of these taxes derived from any levy above fifteen dollars ($15.00) and up to twenty dollars ($20.00) shall be used exclusively for transportation-related purposes, including sidewalks."

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

SECTION 3. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective upon the date the City of Raleigh acts to levy an additional tax under the act and is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-334 **Senate Bill 616**

AN ACT TO ALLOW THE TOWN OF RIVER BEND TO ANNEX AND EXERCISE EXTRATERRITORIAL JURISDICTION AS PROVIDED UNDER GENERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Section VI of the Charter of the Town of River Bend, being that Charter approved by the Municipal Board of Control and filed with the Secretary of State on January 14, 1981, as enacted by Chapter 26 of the Session Laws of 1987, and as rewritten by Section 1 of S.L. 1997-363, is repealed.

SECTION 2. This act does not invalidate any action taken by the Town of River Bend under subsection (c) of Section VI of the Charter of the Town of River Bend before the effective date of the repeal of Section VI of the Charter, as enacted by Section 1 of this act.

SECTION 3. Notwithstanding Part 2 of Article 4A of Chapter 160A of the General Statutes, the Town of River Bend shall not involuntarily annex any of the areas described below:

(a) All of Hidden Oaks Subdivision, as recorded in Plat Cabinet D, Slide 455 in the Craven County Registry.

(b) All of the Governors Mill Subdivision, as recorded in Plat Cabinet D, Slides 776 and 776-A in the Craven County Registry.

(c) All of the Deerfield Subdivision, as recorded in Plat Cabinet D, Slides 718 and 777, Plat Cabinet F, Slides 282, 283, 321, and 333, and Plat Cabinet F, Slides 165-G and 165-H in the Craven County Registry.

(d) All that certain tract or parcel of land lying and being situated in Number Eight Township, Craven County, North Carolina, near River Bend Plantation and being more particularly described as follows: Beginning at a point which lies the following courses and distances from the southeastern corner in the northern right-of-way line of U.S. Highway No. 17 of the property of (now or formerly) Miles A. Minges and Forrest E. Minges, Jr.; North 21 degrees 32 minutes West 276.7 feet and North 61 degrees 55 minutes West 1,457.5 feet. Said point of beginning lies in the western line of the property belonging (now or formerly) to Marshburn. Thence from this point of beginning so located North 87 degrees 31 minutes West 2,883.14 feet to a point; thence

North 2 degrees 40 minutes West 700 feet to a point; thence South 87 degrees 31 minutes East 1,485 feet to a point in the eastern line of the property (now or formerly) of Miles A. Minges and Forrest E. Minges, Jr., said point being in the western line of the property belonging (now or formerly) to Marshburn; thence along and with the Marshburn line South 61 degrees 55 minutes East 1,620 feet to the point of beginning.

(e) All area within three hundred feet (300') of the northern right-of-way line of U.S. Highway 17, between the Craven County-Jones County line and the western right-of-way line of Shoreline Drive.

(f) All area within three hundred feet (300') of the northern right-of-way line of U.S. Highway 17, between the Craven County - Jones County line and the western right-of-way line of East Church Street.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-335 **House Bill 429**

AN ACT TO AUTHORIZE THE TOWNS OF OCEAN ISLE BEACH, EMERALD ISLE, AND HOLDEN BEACH TO SET CANAL DREDGING FEES BASED ON A PROPERTY OWNER'S FRONTAGE ABUTTING A DREDGING PROJECT, AND TO MODIFY BRUNSWICK COUNTY'S FIRE PROTECTION FEES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2004-104 reads as rewritten:

"**SECTION 3.** Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system on the ~~island.~~ island and shall be made on the basis of one of the following:

(1) The frontage abutting the project at an equal rate per foot of frontage.

(2) Per unit or parcel of property."

SECTION 2. Section 1 of S.L. 1999-323, as amended by S.L. 2001-74, reads as rewritten:

"**Section 1.** Fee-supported fire districts.

"**Section 1.(a)** Request for Fee-Supported District. – A county may create a fee-supported fire district for insurance grading purposes if it receives one of the following:

(1) A written request to create the district signed by at least two-thirds of the members of the board of directors of a fire department that contracts with the county to provide fire protection within an area of the county.

(2) A petition requesting creation of a district signed by fifteen percent (15%) of the resident freeholders living in an area in the county. The petition must describe the area to be designated as the district.

"**Section 1.(b)** Creation of Fee-Supported District. – Upon receipt of a request as provided in subsection (a), the county may adopt a resolution establishing a fee-supported fire district and imposing annual fees for the provision of fire protection services within the district. The fee may be established or changed only after the county

board of commissioners has received the recommendations of the committee for that district, established under subsection (b1) of this section. The district may not include any area that is within (i) a tax-supported fire district established under Article 3A of Chapter 69 of the General Statutes; (ii) a county service district established under Article 16 of Chapter 153A of the General Statutes for fire protection purposes; or (iii) another fee-supported fire district. The district may not include any area that is within the corporate limits of a municipality unless the governing body of the municipality agrees to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

"**Section 1.(b1)** Committee for District. – Each district shall have a committee to allow local control over the fee-setting process. In each district that does not include any territory in a participating municipality, the committee shall consist of five members as follows: The Fire Chief, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In each district that does include any territory in a participating municipality, the committee shall consist of members as follows: The Fire Chief, the mayor of each participating municipality in the district, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In either type of district, the Fire Marshal shall chair the committee, but may vote only to break a tie. The committee shall conduct an inquiry into the amount of funds required by the district to meet its needs, and shall make findings on the issue. The committee will communicate these findings to the board of county commissioners and recommend a fee. The board of county commissioners will then set the fee. The same process shall be used for changes to the fee once established.

"**Section 1.(c)** Fees. – The fees imposed by the county may not exceed the cost of providing fire protection services within the district and may be imposed on owners of all real property that benefits from the availability of fire protection and on owners of all manufactured or mobile homes that benefit from the availability of fire protection. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall not exceed the following maximums:

(1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed:

a. Fifty dollars ($50.00) per site per year for homes ~~1,500~~ 1,000 square feet of heated floor area or less.

b. One hundred dollars ($100.00) per site per year for homes greater than ~~1,500~~ 1,000 square feet of heated floor area but less than ~~2,500~~ 2,000 square feet of heated floor area.

c. ~~One hundred fifty dollars ($150.00)~~ Two hundred dollars ($200.00) per site per year for homes ~~2,500 square feet of heated floor area and above.~~2,000 square feet or greater of floor area but not greater than 3,000 square feet of heated floor area.

d. Three hundred dollars ($300.00) per site per year for homes greater than 3,000 square feet of floor area but not greater than 4,000 square feet of heated floor area.

e. Four hundred dollars ($400.00) per site per year for homes greater than 4,000 square feet of floor area but not greater than 5,000 square feet of heated floor area.

f. Five hundred dollars ($500.00) per site per year for homes greater than 5,000 square feet of floor area but not greater than 6,000 square feet of heated floor area.

g. Six hundred dollars ($600.00) per site per year for homes greater than 6,000 square feet of floor area but not greater than 7,000 square feet of heated floor area.

h. Seven hundred dollars ($700.00) per site per year for homes greater than 7,000 square feet of floor area but not greater than 8,000 square feet of heated floor area.

i. Eight hundred dollars ($800.00) per site per year for homes greater than 8,000 square feet of heated floor area.

(2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The county may establish a maximum fee for unimproved land as follows:

a. Up to five acres, ~~five dollars ($5.00).~~ ten dollars ($10.00).

b. Five acres or more but less than 25 acres, ~~ten dollars ($10.00).~~twenty dollars ($20.00).

c. 25 acres or more but less than ~~100~~ 50 acres, fifty dollars ($50.00).

d. ~~100~~ 50 acres or more but less than ~~500~~100 acres, ~~one hundred twenty-five dollars ($125.00).~~one hundred dollars ($100.00).

e. 100 acres or more but less than 200 acres, one hundred fifty dollars ($150.00).

f. 200 acres or more but less than 300 acres, two hundred dollars ($200.00).

g. 300 acres or more but less than 400 acres, three hundred dollars ($300.00).

h. 400 acres or more but less than 500 acres, four hundred dollars ($400.00).

~~e.~~i. 500 acres or more, ~~two hundred fifty dollars ($250.00).~~five hundred dollars ($500.00).

(3) An animal production or horticultural operation. The fee on this class of property may not exceed ten dollars ($10.00) per site per year.

(4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed for a commercial facility:

a. Less than 5,000 square feet, ~~one hundred dollars ($100.00).~~two hundred dollars ($200.00).

b. 5,000 square feet but less than 10,000 square feet, ~~two hundred dollars ($200.00).~~four hundred dollars ($400.00).

c. 10,000 square feet but less than 20,000 square feet, ~~five hundred dollars ($500.00).~~eight hundred dollars ($800.00).

d. 20,000 square feet but less than ~~50,000~~ 30,000 square feet, one thousand dollars ($1,000).

d1. 30,000 square feet but less than 40,000 square feet, one thousand five hundred dollars ($1,500).

d2. 40,000 square feet but less than 50,000 square feet, two thousand dollars ($2,000).

e. 50,000 square feet but less than ~~100,000~~ 60,000 square feet, ~~two thousand five hundred dollars ($2,500).~~ three thousand dollars ($3,000).

e1. 60,000 square feet but less than 70,000 square feet, four thousand dollars ($4,000).

e2. 70,000 square feet but less than 80,000 square feet, five thousand dollars ($5,000).

e3. 80,000 square feet but less than 90,000 square feet, six thousand dollars ($6,000).

e4. 90,000 square feet but less than 100,000 square feet, seven thousand dollars ($7,000).

f. 100,000 square feet or over, ~~three thousand dollars ($3,000).~~eight thousand dollars ($8,000).

(5) A multiple-family dwelling. Each unit in a multiple-family dwelling shall be treated as a single-family dwelling under subdivision (1) of this subsection.

(6) Any other class of property selected by the county. The fee on these classes of property may not exceed one hundred dollars ($100.00) per year.

(7) Outbuildings and special structures that fail to fall into any category above will be classified based on the most appropriate category determined by the specific use of the type of structure.

"**Section 1.(d)** Billing of Fees. – The county may include a fee imposed under this section on the property tax bill for the real property, or the manufactured or mobile home, on which the fee is imposed.

"**Section 1.(e)** Use of Fees. – The county shall credit the fees collected within the district to a separate fund to be used only to furnish fire protection in the district. The board of commissioners shall administer the fund to provide fire protection by one or more of the following methods:

(1) Contracting with any municipality, any incorporated nonprofit volunteer or community fire department, or the Department of Environment and Natural Resources.

(2) Furnishing fire protection itself if it maintains an organized fire department.

(3) Establishing a fire department in the district.

"**Section 1.(f)** Audit of Fire Department. – If the county contracts with a fire department to provide fire protection services in a fee-supported fire district, the fire department shall prepare an annual budget based on anticipated revenues and shall submit the budget to the county for processing and approval through the county's

regular budget procedure. The fire department shall contract for quarterly bookkeeping/accounting services from an independent accountant for each fiscal year July 1 through June 30. The independent accountant must be approved in advance by the County Finance Officer. The fire department is to submit all invoices, cash receipts, bank statements with canceled checks or facsimiles, check registers or stubs, and other financial source documents to the accountant within 15 days of the end of each fiscal quarter. The accountant is to provide a monthly bank reconciliation for each month of the quarter, an itemized schedule of all disbursements for the quarter, and an itemized schedule of cash receipts for the quarter, a quarterly financial report, and a year-to-date financial report directly to the County Fire Marshal's office within 45 days of the end of each fiscal quarter. Funding will not be disbursed until the financial report is accepted by the Finance Officer. The fire department agrees to contract for an independent financial audit conducted by a certified public accountant in accordance with generally accepted accounting principles, for each fiscal year July 1 through June 30 to be completed by October 31 after that fiscal year and submitted to the Brunswick County Emergency Services Department by November 10 following that fiscal year and will comply with federal and State laws and regulations related to financial and compliance audits. Towns will handle all financing and accounts that are spent for the town fire departments. The Town will follow all accounting principles and practices as required by the State of North Carolina. The Treasurer of any fee-supported department shall be bonded for at least one and one-half times the department's annual budget. ~~Upon request of the county, the fire department shall make quarterly or semiannual reports to the county detailing its revenues, expenditures, and activities.~~ The county may audit the fire department's financial records upon reasonable notice to the fire department. Any fees collected by the county to be disbursed to a fee-supported department will be withheld until all fiscal issues are resolved to the satisfaction of the County Finance Officer.

"**Section 1.(g)** Extension of Area of District. – The county may by resolution annex to any fee-supported fire district any territory that it could include in a new district under subsection (c) of this section, upon finding that:

(1) The area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district; and

(2) The area to be annexed requires the services of the district.

The county may also by resolution annex to any fee-supported fire district any territory it could include in a new district under subsection (c) of this section if seventy-five percent (75%) of the real property owners in the territory to be annexed have petitioned the board of commissioners for annexation to the service district.

The area of any fee-supported fire district may be increased by including within the boundaries of the district any adjoining territory lying within a municipality if the territory is not already included in another fire protection district, and both the municipal governing body and the county commissioners of the county in which the district is located agree by resolution to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

"**Section 1.(h)** Annexation of District. – When any portion of a fee-supported fire district has been annexed by a municipality furnishing fire protection to its citizens, and the municipality has not agreed to allow territory within it to be in the district, then the portion of the district annexed is no longer part of a fee-supported district. For the

purposes of this section and regardless of the actual effective date of annexation, the date of annexation shall be considered to be a date in the month of June. When any portion of a fee-supported fire district is annexed by a municipality furnishing fire protection to its citizens, there is debt associated with the prior fee-supported district providing the fire protection to that area, an assumption of debt shall be paid to the fee-supported district at a rate of not less than one-half the fees that are collected from the annexed area for a period of not less than three years. This shall in no way limit or restrict a municipality from contracting with a fee-supported district to provide fire protection services nor shall it require a fee-supported district to provide fire protection services without an additional contract.

"**Section 1.(i)** Abolition of District. – Upon finding that there is no longer a need for a given fee-supported fire district, the board of commissioners may repeal the resolution establishing the district and thus abolish the district.

"**Section 1.(j)** Administrative Oversight. – Each nonmunicipal department shall bring any purchase in excess of ten thousand dollars ($10,000) for approval to a fire protection oversight board that is determined by the board of commissioners of the county and is chaired by the Emergency Services Director or his designee. Failure to adhere to the recommendations of the committee could lead to forfeiture of collected fees. All departments that receive funding from a fee-supported district shall participate in countywide strategic planning sessions conducted by the emergency services office no less than once a year.

"**Section 1.(k)** Collection Remedies. – A county may foreclose fire fee liens under any procedure provided by law for the foreclosure of property tax liens, except that: (i) lien sales and lien sale certificates are not required, and (ii) foreclosure may be begun at any time after 30 days after the due date. The county is not entitled to a deficiency judgment in an action to foreclose a fire fee lien. The lien of fire fees is inferior to all prior and subsequent liens for State, local, and federal taxes, and superior to all other liens."

SECTION 3. Section 2 of this act becomes effective January 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-336 **House Bill 849**

AN ACT TO AUTHORIZE THE TOWN OF MORRISVILLE TO REGULATE GOLF CARTS ON PUBLIC STREETS OR HIGHWAYS WITHIN THE TOWN OR ON PROPERTY OWNED OR LEASED BY THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2006-27, as amended by S.L. 2007-72, reads as rewritten:

"**SECTION 1.** This act applies to the City of Saluda and the Towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Morrisville, Shelby and Wrightsville Beach only."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-337 **House Bill 1013**

AN ACT TO AUTHORIZE HAYWOOD COUNTY TO LEVY AN ADDITIONAL ONE PERCENT OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 16.1 of Part V of Chapter 908 of the 1983 Session Laws, as enacted by Chapter 942 of the 1985 Session Laws (Regular Session 1986), is recodified as Section 10.1 of Part V of Chapter 908 of the 1983 Session Laws, as amended.

SECTION 2. Part V of Chapter 908 of the 1983 Session Laws, as amended by Chapter 942 of the 1985 Session Laws (Regular Session 1986), Chapter 48 of the 1987 Session Laws, Chapter 540 of the 1995 Session Laws, and Section 1 of this act, reads as rewritten:

"Part V. Haywood Occupancy Tax.

"Sec. 10. ~~Levy of Tax.~~Occupancy Tax. (a) Authorization and Scope. – The Haywood County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development ~~tax.~~

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

~~"Sec. 11. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be~~ tax of two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county ~~now subject to the three percent (3%)~~ that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations.

"Sec. 10.1. Additional One Percent (1%) Occupancy Tax. – In addition to the tax authorized by ~~Sections 10 and 11~~ Section 10 of this Part, the Haywood County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under ~~those sections.~~ that section. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with ~~Sections 10 through 16 of~~ this Part. Haywood County may not levy a tax under this section unless it also levies a tax under ~~Sections 10 and 11~~ Section 10 of this Part.

"Sec. 10.2. Additional One Percent (1%) Occupancy Tax. – In addition to the tax authorized by Sections 10 and 10.1 of this Part, the Haywood County Board of Commissioners may levy a room occupancy and tourism development tax of one

percent (1%) of the gross receipts derived from the rental of accommodations taxable under Sections 10 and 10.1 of this Part. The levy, collection, administration, and repeal of the tax authorized by this section and the use of tax revenue from a tax levied under this section shall be in accordance with this Part. Haywood County may not levy a tax under this section unless it also levies the tax authorized under Sections 10 and 10.1 of this Part.

"Sec. 12. Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this Part.~~Administration of Tax. (a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

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

~~(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.~~

~~(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment not to exceed six months, or both.~~

~~"Sec. 13. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax.~~

~~This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Haywood County. It is the intent of this Part that the room occupancy tax levied by Haywood County shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

"Sec. 14. ~~Disposition of Taxes Collected.~~Distribution and Use of the First Three Percent Occupancy Tax. – Haywood County ~~shall~~ shall, on a monthly basis, remit the net proceeds of ~~all revenues received from~~ the room occupancy and tourism development tax levied under Sections 10 and 10.1 of this Part to the ~~county~~ Haywood County Tourism Development Authority. ~~Authority appointed pursuant to this Part. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may expend these funds only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may use no more than fifteen percent (15%) of these funds for administrative expenses of the Authority.~~The

Authority shall use at least two-thirds of the funds remitted to it under this Part to promote travel and tourism in the county and shall use the remainder for tourism-related expenditures.

The following definitions apply in this Part:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

"Sec. 14.1. Distribution and Use of the Additional One Percent Occupancy Tax. – Haywood County shall, on a monthly basis, remit the net proceeds of the room occupancy and tourism development tax levied under Section 10.2 of this Part to the Haywood County Tourism Development Authority. The Authority must segregate the net proceeds received under this section into five separate accounts based on the collection area from which the proceeds were collected. Net proceeds collected under this section from accommodations located in the 28716 zip code area must be credited to the Canton Area Account. Net proceeds collected under this section from accommodations located in the 28721 zip code area must be credited to the Clyde Area Account. Net proceeds collected under this section from accommodations located in 28745 zip code area must be credited to the Lake Junaluska Area Account. Net proceeds collected under this section from accommodations located in the 28751 zip code area must be credited to the Maggie Valley Area Account. Net proceeds collected under this section from accommodations located in the 28785 and the 28786 zip code areas must be credited to the Waynesville Area Account. Based on recommendations from and in consultation with each of the five collection areas, the Authority shall use at least two-thirds of the funds in each account to promote travel and tourism and the remainder for tourist-related expenditures in each of the collection areas.

"Sec. 15. ~~Appointments, Duties of~~ Tourism Development Authority. – (a) Appointment and Membership. – When the Haywood County Board of Commissioners adopts a resolution levying a room occupancy and tourism development tax pursuant to this Part, it shall also adopt a resolution creating ~~a~~ the Haywood County Tourism Development ~~Authority~~ Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide that the Authority is composed of ~~nine voting members appointed as follows:~~the following 15 members:

(1) Three members who own or operate hotels, motels, or other accommodations with more than 20 rental units.

(2) Three members who own or operate hotels, motels, or other accommodations with 20 or fewer rental units.

(3) ~~Three tourist-oriented business members at large.~~Two members who own or operate a tourism-related business, including, but not limited to, county attractions, resorts, restaurants, gift shops, and concert venues.

(4) Four at-large members who are recommended to the Board of Commissioners by the four municipal governments. Each governing body must submit two names to the Board, and the Board must select from the names submitted.

(5) Three ex officio, nonvoting members as follows:

a. A member of the Haywood County Board of Commissioners.

b. The Haywood County finance officer.

c. The Executive Director of the Haywood County Economic Development Commission.

All members of the Authority shall be appointed by the Haywood County Board of Commissioners. At least one-third of the members must be individuals affiliated with businesses that collect the tax in the county, and at least one-half of the members must be individuals currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate ~~three~~ four of its initial appointees to serve a one-year term, ~~three~~ four to serve a two-year term, and ~~three~~ four to serve a three-year term. Thereafter, all members shall serve three-year terms. All members of the Authority serve at the pleasure of the Board of Commissioners and may be removed by the Board at any time. All members of the Authority shall serve without compensation. Vacancies shall be filled by the Board of Commissioners subject to the qualifications established above for the vacating member. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

~~(b)~~ The members of the Tourism Development Authority shall elect from its membership a chair. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The chair shall only vote to break a tie vote. The finance officer of Haywood County shall serve ex officio as accountant for the Authority.

(b1) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

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

~~"Sec. 16. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Haywood County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.~~

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

SECTION 3. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare,

Davie, Duplin, Durham, Franklin, Granville, Halifax, Haywood, Madison, Martin, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averasboro in Harnett County."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-338 **Senate Bill 604**

AN ACT TO CAP THE AD VALOREM TAX RATE OF THE TOWN OF WENTWORTH.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Wentworth, being Section VII of Chapter 76 of the Private Laws of 1798, as amended by S.L. 1997-322 and S.L. 2003-330, is amended by adding a new section to read:

"Sec. 1.2. Except with an approving vote of the people as provided by G.S. 160A-209(f), the Town may not levy property taxes at a rate higher than thirty-five cents (35¢) on the one hundred dollars' ($100.00) appraised value of property subject to taxation."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-339 **Senate Bill 609**

AN ACT TO ALLOW CHATHAM COUNTY TO USE RECREATION FUNDS RECEIVED FROM SUBDIVISION DEVELOPERS TO CONSTRUCT AND ACQUIRE RECREATIONAL FACILITIES IN CHATHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-349.6 is amended by adding a new subsection to read:

"(e) A development agreement may require a developer to provide funds to the county to be used for the development and construction of recreational facilities to serve one or more developments within an area chosen by the county."

SECTION 2. This act applies to Chatham County only.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-340 **House Bill 1027**

AN ACT TO INCREASE THE OCCUPANCY TAX FOR THE TOWN OF JONESVILLE, TO AUTHORIZE YADKIN COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY, AND TO AUTHORIZE THE TOWN OF YADKINVILLE TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

INCREASE JONESVILLE OCCUPANCY TAX

SECTION 1. Section 1 of S.L. 2002-95 is amended by adding a new subsection to read:

"(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Jonesville Town Council may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Town of Jonesville may not levy a tax under this subsection unless it also levies the maximum tax authorized under subsection (a) of this section."

YADKIN COUNTY DISTRICT Y OCCUPANCY TAX

SECTION 2. Yadkin County District Y Created. – Yadkin County District Y is created as a taxing district. Its jurisdiction consists of that part of Yadkin County that is located outside of incorporated areas within the county. Yadkin County District Y is a body politic and corporate and has the power to carry out the provisions of this act. The Yadkin County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 3. Authorization and Scope. – The governing body of Yadkin County District Y may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 4. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Yadkin County District Y were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 5. Distribution and Use of Tax Revenue. – Yadkin County District Y shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Yadkin County District Y Tourism Development Authority created pursuant to Section 6 of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for

the direct benefit of the jurisdiction of Yadkin County District Y. None of the proceeds may be used to promote travel or tourism in areas within Yadkin County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 6.(a) Yadkin County District Y Tourism Development Authority. – Appointment and Membership. – The Yadkin County Board of Commissioners shall adopt a resolution creating the Yadkin County District Y Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 6.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 5 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 6.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Yadkin County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

YADKINVILLE OCCUPANCY TAX

SECTION 7. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners for the Town of Yadkinville may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place other than a bed and breakfast within the town that is subject to sales tax imposed by the State

under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 7.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 7.(c) Distribution and Use of Tax Revenue. – The Town of Yadkinville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Yadkinville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the Town of Yadkinville and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Yadkinville Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 8. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Yadkinville Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 8.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under Section 7 of this act for the purposes provided in Section 7 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 8.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Yadkinville Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

ADMINISTRATIVE PROVISIONS

SECTION 9. G.S. 153A-155(g) reads as rewritten:

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

SECTION 10. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Mooresville, North Topsail Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, ~~and~~ Wrightsville Beach, and Yadkinville, and to the municipalities in Avery and Brunswick Counties."

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-341 **House Bill 1228**

AN ACT TO PROVIDE FOR AN INCREASE IN THE PENALTY SET FOR A RED LIGHT VIOLATION DETECTED BY A CAMERA; TO REQUIRE THAT THE CLEAR PROCEEDS OF EACH PENALTY COLLECTED BE TRANSFERRED TO THE LOCAL SCHOOL BOARD; TO DEFINE WHAT AMOUNTS MAY BE DEDUCTED FROM EACH PENALTY BY A MUNICIPALITY TO ARRIVE AT THE AMOUNT OF CLEAR PROCEEDS FROM EACH CIVIL PENALTY THAT MUST BE TRANSFERRED TO THE LOCAL SCHOOL BOARD; AND TO PERMIT A COLLECTION ASSISTANCE FEE TO BE COLLECTED FROM THE RESPONSIBLE PARTY IF THE CIVIL PENALTY IS NOT PAID WITHIN A SPECIFIED TIME.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-300.1(c) reads as rewritten:

"§ **160A-300.1. Use of traffic control photographic systems.**

…

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality

adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 30 days after the date of personal service or mailing of notification of the violation, furnishes the officials or agents of the municipality which issued the citation either of the following:
   a. An affidavit stating the name and address of the person or company who had the care, custody, and control of the vehicle.
   b. An affidavit stating that the vehicle involved was, at the time, stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information.

(1a) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of ~~fifty dollars ($50.00)~~ seventy-five dollars ($75.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state when the penalty is due and the manner in which the violation may be ~~challenged, and the~~challenged. The owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within 30 days after the date the citation is served or mailed, ~~the time period specified on the citation,~~ the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.

(5) The clear proceeds from the citations issued pursuant to an ordinance authorized by this section shall be paid to the local school board. For the purposes of determining the clear proceeds derived from the citations, the following expenses, not to exceed ten percent (10%) of the civil penalty assessed pursuant to subdivision (2) of this subsection, are authorized to be deducted from each civil penalty

assessed pursuant to the provisions of subdivision (2) of this subsection:

a. The cost of materials and postage directly related to the printing and mailing of the first and second notices sent to the owner and, if necessary, the driver of the vehicle.

b. The cost of computer services directly related to the production and mailing of the notices described in sub-subdivision a. of this subdivision.

(6) The municipality may assess a collection assistance fee against the owner and, if necessary, driver of the vehicle under the conditions in this subdivision. Amounts collected must be credited first to the payment of the civil penalty and then to collection assistance fee. The conditions are as follows:

a. The civil penalty has not been paid within 30 days after the personal service or first-class mailing of a second notice that the penalty is due. The second notice must be served or mailed no sooner than 30 days after the day the first notice was served or mailed and must contain a notice stating that a collection assistance fee will be assessed if the penalty is not paid within 30 days after the service or mailing of the second notice, the date when the collection assistance fee will be assessed, and the amount of the collection assistance fee. The collection assistance fee shall not exceed twenty percent (20%) of the civil penalty assessed pursuant to subdivision (2) of this subsection.

b. Collection assistance fees shall be placed in a separate fund that may be used only for the purpose of paying for the costs of collection expended to collect civil penalties that remain unpaid 30 days after the service or mailing of the second notice required pursuant to sub-subdivision a. of this subdivision."

SECTION 2. G.S. 160A-300.1(d) reads as rewritten:

"(d) This section applies only to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Greensboro, Greenville, High Point, Locust, Lumberton, Newton, Rocky Mount, and Wilmington, to the Towns of Chapel Hill, Cornelius, Huntersville, Matthews, Nags Head, Pineville, and Spring Lake, and to the municipalities in Union County."

SECTION 3. Section 1 of this act applies to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Locust, and Rocky Mount and to the municipalities in Union County.

SECTION 4. This act becomes effective September 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-342 **Senate Bill 546**

AN ACT REMOVING THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWN OF MOUNT PLEASANT.

The General Assembly of North Carolina enacts:

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

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

…

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Mount Pleasant, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Watha, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-343 **House Bill 1556**

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate; and

Whereas, the Speaker of the House of Representatives and the President Pro Tempore have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. SPEAKER'S RECOMMENDATIONS.

SECTION 1.1. If House Bill 1650, 2007 Regular Session, becomes law, then Nancy Davison of Wake County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2010.

SECTION 1.2. Thomas "Tommy" J. Emerson of Chatham County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on July 1, 2010.

SECTION 1.3. Harold K. Hart of Chatham County and Michael Weeks of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2011.

SECTION 1.4. Mary Roberts of Orange County and Linda LaRue of Forsyth County are appointed to the Child Care Commission for terms expiring on June 30, 2009.

SECTION 1.5. David Yarasheski, D.C., of Durham County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2009.

SECTION 1.6. Dr. Norman C. Camp, III of Wake County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2011.

SECTION 1.7. Mark H. Hicks of Granville County and Hiram Williams of Pender County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2011.

SECTION 1.8. Ellen B. Scouten of Chatham County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2011.

SECTION 1.9. Richard J. Armstrong of Wake County, the Honorable James K. Festerman of Rockingham County, Vernon Julius Bryant of Halifax County, and Kevin Wallace of Wake County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2009.

SECTION 1.10. Donnie O. Holt of Forsyth County and Barker French of Durham County are appointed to the North Carolina Criminal Justice Information Network Governing Board for terms expiring on June 30, 2011.

SECTION 1.11. Effective September 1, 2007, the Honorable Beverly A. Scarlett of Orange County and Maria Pinto of Pitt County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2009.

SECTION 1.12. John D. Chaffee of Pitt County and Billy Wooten of Edgecombe County are appointed to the North Carolina's Eastern Region Development Commission for terms expiring on June 30, 2011.

SECTION 1.13. Representative Marvin W. Lucas of Cumberland County is appointed to the Education Commission of the States for a term expiring on June 30, 2008.

SECTION 1.14. Effective September 1, 2007, Elizabeth Fisher of New Hanover County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2010.

SECTION 1.15. Effective January 1, 2007, Carl R. McKnight of Lincoln County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2011.

SECTION 1.16.(a) Effective January 1, 2008, the Honorable Foyle Hightower, Jr., of Anson County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2008.

SECTION 1.16.(b) Effective January 1, 2008, the Honorable Stanley H. Fox of Granville County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2009.

SECTION 1.16.(c) Effective January 1, 2008, the Honorable Wayne Goodwin of Richmond County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2010.

SECTION 1.17. John S. Curry of Buncombe County and Steven D. Weber of Mecklenburg County are appointed to the Environmental Management Commission for terms expiring on June 30, 2009.

SECTION 1.18. Gordon Vermillion of Lenoir County and Barbara R. Kornegay of Wayne County are appointed to the Board of Directors of North Carolina Global TransPark Authority for terms expiring on June 30, 2011.

SECTION 1.19. Terry B. Todd of Wake County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on July 1, 2011.

SECTION 1.20. William C. Lackey, Jr. of Mecklenburg County, William C. Fitzgerald, III of Scotland County, James W. Oglesby of Buncombe County, and Paul S. Jaber of Nash County are appointed to the North Carolina Housing Finance Agency for terms expiring on June 30, 2009.

SECTION 1.21. Representative Jennifer Weiss of Wake County, Representative Arthur J. Williams of Beaufort County, Representative Larry W. Womble of Forsyth County, Karen Anne McCall of Durham County, the Honorable Norman A. Mitchell, Sr. of Mecklenburg County, Denise Barratt of Johnston County, W. Robert Bizzell of Lenoir County, and Sylvia Coleman of Guilford County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2009.

SECTION 1.22. Jens Saakvitne of Forsyth County is appointed to the License to Give Trust Fund Commission for a term expiring on December 31, 2008, to fill the unexpired term of Jeannette K. Poole.

SECTION 1.23. W. Calvin "Cal" Horton of Orange County is appointed to the Local Government Commission for a term expiring on June 30, 2009, to fill the unexpired term of David Huskins.

SECTION 1.24. Effective January 1, 2007, Larry K. Hayes of Lenoir County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2010.

SECTION 1.25. Effective September 1, 2007, Max O. Cogburn, Jr. of Buncombe County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2012.

SECTION 1.26. LeAnder Canady of Guilford County and Sally Schornstheimer of Orange County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2009.

SECTION 1.27. Effective January 1, 2008, Dr. Alan S. Weakley of Chatham County and Henry L. Kitchin of Brunswick County are appointed to the Natural Heritage Trust Fund Board of Trustees for terms expiring on January 1, 2014.

SECTION 1.28.(a) Effective July 1, 2006, the Honorable Zeno L. Edwards, Jr. of Beaufort County is appointed to the Northeastern North Carolina Regional Economic Development Commission for a term expiring on June 30, 2008.

SECTION 1.28.(b) Eddie J. Lynch of Currituck County, the Honorable Thomas B. Richter of Beaufort County, and the Honorable Drewery N. Beale of Halifax County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2009.

SECTION 1.29. Effective January 1, 2007, Martha Ann Harrell of Cumberland County is appointed to the North Carolina Board of Nursing for a term expiring on December 31, 2011.

SECTION 1.30. Connie Moore Corey of Pitt County is appointed to the North Carolina Nursing Scholars Commission for a term expiring on June 30, 2011.

SECTION 1.31. The Honorable Edd Nye of Bladen County is appointed to the Board of Directors of the North Carolina Center for Nursing for a term expiring on June 30, 2008, to fill an unexpired term.

SECTION 1.32. Robert L. Epting of Orange County and Thomas S. Blue of Moore County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on July 1, 2010.

SECTION 1.33. Lloyd Williams, Jr. of Cleveland County, Bennie Gupton of Franklin County, Ralph Heath of Wake County, and Waheed Haq of Wake County are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2009.

SECTION 1.34. Dr. George Frazier of Pitt County is appointed to the North Carolina Principal Fellows Commission for a term expiring on June 30, 2011.

SECTION 1.35. Notwithstanding the provisions of G.S. 74C-4(b), Sally K. Pleasant of Stanly County and Mack Donaldson of Guilford County are appointed to the Private Protective Services Board for terms expiring on June 30, 2009.

SECTION 1.36. Effective January 1, 2007, William D. English of Buncombe County is appointed to the North Carolina Professional Employer Organization Advisory Council for a term expiring on December 31, 2010.

SECTION 1.37. The Honorable Wade F. Wilmoth of Watauga County is appointed to the Property Tax Commission for a term expiring on June 30, 2011.

SECTION 1.38. Janet Pittard of Wake County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term expiring on June 30, 2009.

SECTION 1.39. Joseph R. Kluttz, Jr. of Stanly County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2011.

SECTION 1.40. The Honorable James H. Edwards of Caldwell County and Herbert Crenshaw of Wake County are appointed to the North Carolina Agency for Public Telecommunications for terms expiring on June 30, 2009.

SECTION 1.41. Robert W. Griffin of Lenoir County and the Honorable R. Samuel Hunt, III of Alamance County are appointed to the North Carolina Railroad Company Board of Directors for terms expiring on June 30, 2011.

SECTION 1.42. Bunkey Morgan of Chatham County is appointed to the North Carolina Recreational Therapy Licensure Board for a term expiring on June 30, 2010.

SECTION 1.43. Effective October 1, 2007, Thomas E. Brooks of Wake County, Walter E. Daniels of Durham County, and O. Rolf Blizzard, III of Wake County are appointed to the Roanoke Island Commission for terms expiring on September 30, 2009.

SECTION 1.44. The Honorable Clarence E. Horton, Jr. of Cabarrus County, Jennie Jarrell Hayman of Wake County, and Daniel F. McLawhorn of Wake County are appointed to the Rules Review Commission for terms expiring on June 30, 2009.

SECTION 1.45. Hughley B. Spruill, Sr. of Cumberland County and Richard J. Richardson of Chatham County are appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for terms expiring on June 30, 2009.

SECTION 1.46. W. Hugh Thompson of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2009.

SECTION 1.47. Gwen A. White of Tyrrell County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2009.

SECTION 1.48. John B. Allison of Haywood County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2010.

SECTION 1.49. Wyatt G. Upchurch of Hoke County and George Rountree, III of New Hanover County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2011.

SECTION 1.50. R. A. "Bob" Southerland of Wake County is appointed to the State Banking Commission for a term expiring on June 30, 2011.

SECTION 1.51. James T. Driscoll, Jr. of Robeson County is appointed to the State Building Commission for a term expiring on June 30, 2010.

SECTION 1.52. John Wayne Strowd, Jr. of Chatham County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2010.

SECTION 1.53. Jesse S. Capel of Montgomery County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2009.

SECTION 1.54. Michelle Capen of Caldwell County and Monica Lowry Graham of Robeson County are appointed to the North Carolina Teacher Academy Board of Trustees for terms expiring on June 30, 2011.

SECTION 1.55. Lacey P. Barnes of Johnston County is appointed to the Board of Trustees of Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2009.

SECTION 1.56. Alfred J. Hackney, Jr. of Columbus County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2009.

SECTION 1.57. Dr. Thomas Dowell of Jackson County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2011.

SECTION 1.58. Effective October 1, 2007, Elizabeth Stock Newlin of Wake County, Anne King of Wake County, and Dr. Scott G. Sagraves of Pitt County are appointed to the North Carolina Traumatic Brain Injury Advisory Council for terms expiring on September 30, 2011.

SECTION 1.59. Effective January 15, 2007, the Honorable David Redwine of Brunswick County is appointed to the North Carolina Turnpike Authority for a term expiring on January 14, 2011.

SECTION 1.60. Clement Geitner of Catawba County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2009.

SECTION 1.61. Raymond W. Magette, Jr. of Hertford County and Tarrell B. Graham of Moore County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2010.

SECTION 1.62. Van Phillips of Mitchell County, Harris Prevost of Avery County, Reese Lasher of Buncombe County, and Eugene E. Ellison of Buncombe County are appointed to the Western North Carolina Regional Economic Development Commission (AdvantageWest) for terms expiring on June 30, 2011.

SECTION 1.63. Dr. Timothy J. Langer of Wake County, Durwood S. Laughinghouse of Wake County, Mitch St. Clair of Beaufort County, and Charles W. "Chuck" Bennett of Mecklenburg County are appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30, 2009.

SECTION 1.64. Sheriff Alan Cloninger of Gaston County and Jerry O. Jones of Wake County are appointed to the Wireless 911 Board for terms expiring on June 30, 2009.

PART II. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS.

SECTION 2.1.(a) Andy Prescott of Orange County is to be appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2010.

SECTION 2.1.(b) If House Bill 1650, 2007 Regular Session, becomes law, then David Peters of Wake County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2010.

SECTION 2.2. Jimmy Harrell of Camden County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on July 30, 2010.

SECTION 2.4. Dr. Paul V. Phibbs of Pitt County is appointed to the Board of Directors of the North Carolina Arboretum with a term to expire June 30, 2010, to fill the unexpired term of Gladys Brooks.

SECTION 2.5. The Honorable George Daniel of Caswell County, Frank Daniels of Wake County, Reef Ivey of Wake County, the Honorable Wendell Murphy of Duplin County, and Matt Wood of Perquimans County are appointed to the Centennial Authority for terms expiring on June 30, 2011.

SECTION 2.6. Penny Davis of Rutherford County and Magdalena Cruz of Nash County are appointed to the Child Care Commission for terms expiring on June 30, 2009.

SECTION 2.7. Dr. Ron Waller of Wake County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2010.

SECTION 2.8. Richard Coleman of Columbus County and Dr. Lloyd Hackley of Orange County are appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2011.

SECTION 2.9. James Kennedy of Forsyth County and William Rakatansky of Mecklenburg County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2011.

SECTION 2.10. Robert Lewis of Wake County, Terry Waterfield of Pasquotank County, Bonnie Boyette of Nash County, and Wade Anders of Cumberland County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2009.

SECTION 2.11. Joe Castro of Transylvania County is appointed to the Disciplinary Hearings Committee of the North Carolina State Bar for a term expiring on June 30, 2010.

SECTION 2.12. Effective September 1, 2007, Karen Thompson of Mecklenburg County, Lynn Bryant of Dare County, John Guard of Pitt County, Linda Hold-Cox of Wayne County, and Betsy Wells of Orange County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2009.

SECTION 2.13. Dick Futrell of Carteret County and Leigh McNairy of Lenoir County are appointed to the North Carolina's Eastern Region Development Commission for terms expiring on June 30, 2011.

SECTION 2.14. Effective January 22, 2007, W. Harrell Everett of Wayne County is appointed to the Economic Investment Committee for a term expiring on January 21, 2009.

SECTION 2.15.(a) Effective January 1, 2008, Jon Hamm of Wake County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2008.

SECTION 2.15.(b) Effective January 1, 2008, Bunny Sanders of Washington County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2009.

SECTION 2.15.(c) Effective January 1, 2008, John Bardo of Orange County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2010.

SECTION 2.16. Stan Crowe of Martin County, Freddie Harrill of Cleveland County, and Forrest Westfall of Yancey County are appointed to the Environmental Management Commission for terms expiring on June 30, 2009.

SECTION 2.17. Reginald Kenan of Duplin County, Earl Brinkley of Duplin County, and Durwood Stephenson of Johnston County are appointed to the Board of Directors of North Carolina Global TransPark Authority for terms expiring on June 30, 2011.

SECTION 2.18. David Jones of Orange County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on July 1, 2011.

SECTION 2.19. Patricia Garrett of Mecklenburg County is appointed to the North Carolina Housing Finance Agency for a term expiring on June 30, 2011.

SECTION 2.20. The Honorable Ted Alexander of Cleveland County and Sallie Surface of Northampton County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2008, to fill the unexpired terms of Vivian Jones and Jeffrey Null.

SECTION 2.21. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2009.

SECTION 2.22. Kathryn Ahlport of Guilford County, the Honorable Katie Dorsett of Guilford County, Marian Duncan of Columbus County, the Honorable Jim Forrester of Gaston County, Gladys Lundy of Wake County, Jo Morgan of Pitt County, the Honorable Bill Purcell of Scotland County, Carolyn Tracy of Cumberland County, and Dr. Rosemary Summers of Orange County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2009.

SECTION 2.23. Effective January 1, 2007, Ken Burkel of Forsyth County, William Faircloth of Mecklenburg County, Jan Hill of Forsyth County, and Lloyd Jordan of Durham County are appointed to the License to Give Trust Fund Commission for a term expiring on December 31, 2009.

SECTION 2.24. Effective December 15, 2007, Bridget-Anne Hampden of Mecklenburg County is appointed to the North Carolina State Lottery Commission for a term expiring on December 14, 2012.

SECTION 2.25. Johnnie Burgess of Onslow County and Larry Garner of Mecklenburg County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2010.

SECTION 2.26. Dr. Richard Brunstetter of Forsyth County and Pamela Poteat of Gaston County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2010.

SECTION 2.27. Dr. Dudley Anderson of Wilson County and Dr. Joan Huntley of Orange County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2009.

SECTION 2.28. Effective January 1, 2008, Robert Gordon of Scotland County and Samuel P. Douglas of Wilson County are appointed to the Natural Heritage Trust Fund Board of Trustees for terms expiring on January 1, 2014.

SECTION 2.29. Ernie Bowden of Currituck County, Ray Hollowell of Dare County, Elsie Pugh of Camden County, the Honorable Gene Rogers of Martin County, Robert Spivey of Bertie County, and David Twiddy of Pasquotank County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2009.

SECTION 2.30. Carole Ricker of Randolph County and Gail Gribble of Gaston County are appointed to the Board of Directors of the North Carolina Center for Nursing for terms expiring on June 30, 2009.

SECTION 2.31. Wanda Boyette of Sampson County is appointed to the North Carolina Nursing Scholars Commission for a term expiring on June 30, 2011.

SECTION 2.32. Tim Aydlett of Perquimans County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2010.

SECTION 2.33. Michael Barnes of Wilson County, Anne Coan of Wake County, Michael Hare of Perquimans County, Thomas Mehder of Mecklenburg County, and Douglas Howey of Wake County are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2009.

SECTION 2.34. Johnny I. Farmer of Wake County is appointed to the North Carolina Principal Fellows Commission for a term expiring on June 30, 2011.

SECTION 2.35. Terry Wheeler of Dare County is appointed to the Property Tax Commission for a term expiring on June 30, 2011.

SECTION 2.36. Dexter Perry of Wake County is appointed to the North Carolina Public Employee Deferred Compensation Plan Board of Trustees for a term expiring on June 30, 2009.

SECTION 2.37. David Walker of Robeson County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2011.

SECTION 2.38. Anthony Copeland of Wake County and Martin H. Bocock of Wake County are appointed to the North Carolina Agency for Public Telecommunications for terms expiring on June 30, 2009.

SECTION 2.39. Dennis Rash of Mecklenburg County and Robert F. Bleeker of Cumberland County are appointed to the North Carolina Railroad Board of Directors for terms expiring on June 30, 2011.

SECTION 2.40. Tod Clissold of Dare County, Punk Daniels of Dare County, and Glenn Eure of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2009.

SECTION 2.41. Jim Funderburke of Gaston County, Jeff Gray of Wake County, David R. Twiddy of Pasquotank County, Keith Gregory of Wake County, and Jerry Crisp of Burke County are appointed to the Rules Review Commission for terms expiring on June 30, 2009.

SECTION 2.42. Russell Stetson of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2009.

SECTION 2.43. The Honorable Rodney Midgett of Dare County is appointed to the North Carolina Sheriff's Education and Training Standards Commission for a term expiring on June 30, 2009.

SECTION 2.44. James Beeson of Guilford County is appointed to the North Carolina Board for the Licensing of Soil Scientists for a term expiring on June 30, 2010.

SECTION 2.45. J.C. Batchelor of Bladen County and Delilah Blanks of Bladen County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2011.

SECTION 2.46. Paul Boney of New Hanover County is appointed to the State Building Commission for a term expiring on June 30, 2010.

SECTION 2.47. William Winn of Gates County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 20l0.

SECTION 2.48. Derryl Garner of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2009.

SECTION 2.49. Gail Gadsden of Durham County, Jenny Eakins of Nash County, and Dorothy Crowe of Person County are appointed to the North Carolina Teacher Academy Board of Trustees for terms expiring on June 30, 2011.

SECTION 2.50. Timothy Keever of Alexander County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2009.

SECTION 2.51.(a) Dr. Jane Norwood of Mecklenburg County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2009, to fill the unexpired term of Dr. Leroy Walker.

SECTION 2.51.(b) Colleen Lanier of Forsyth County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 20, 2011.

SECTION 2.52. Effective October 1, 2007, Ken Farmer of Wake County, David Good of Forsyth County, and Elsie Seibelink of Pitt County are appointed to the North Carolina Traumatic Brain Injury Advisory Council for terms expiring on September 30, 2011.

SECTION 2.53. Effective January 15, 2007, Robert Spencer of Gaston County is appointed to the North Carolina Turnpike Authority for a term expiring on January 14, 2011.

SECTION 2.54. Ashley Thrift of Forsyth County is appointed to the Board of Trustees for the University of North Carolina Center for Public Television for a term expiring on June 30, 2009.

SECTION 2.55. J.W. Davis of Henderson County, Tommy Jenkins of Macon County, Samuel Neill of Henderson County, and Wanda Profitt of Yancey County are appointed to the Western North Carolina Regional Economic Development Commission (AdvantageWest) for terms expiring on June 30, 2011.

SECTION 2.56. Dell Murphy of Duplin County, Maughn Hull of Pasquotank County, Eugene Price of Wayne County, and Bobby Purcell of Wake County are appointed to the Wildlife Resources Commission for terms expiring on June 30, 2009.

SECTION 2.57. Wesley E. Reid of Guilford County is appointed to the Wireless 911 Board for a term expiring on June 30, 2009, to fill the unexpired term of Betty Dobson.

PART III. EFFECTIVE DATE.

SECTION 3.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 3.2. Unless otherwise specified, all appointments made by this act are for terms to begin upon ratification of this act.

SECTION 3.3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-344 **House Bill 842**

AN ACT REMOVING CERTAIN RESTRICTIONS ON SATELLITE ANNEXATIONS FOR THE CITY OF KANNAPOLIS.

The General Assembly of North Carolina enacts:

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

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

~~(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~

~~(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.~~

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Creswell, Dallas, Dobson, Fuquay-Varina, Garner, Godwin, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, Yadkinville, and Zebulon."

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

SECTION 3. This act applies only to annexations in the area of Cabarrus County bound by the existing City of Kannapolis corporate limits to the east, the Mecklenburg County/Cabarrus County line to the west, the Cabarrus County/Rowan County/Iredell County lines to the north, and N.C. Highway 73 to the south.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law on the date it was ratified.

Session Law 2007-345 **House Bill 714**

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2007.

The General Assembly of North Carolina enacts:

SECTION 1. The fourth paragraph of subdivision (28) of Section 10.36(d) of S.L. 2007-323 reads as rewritten:

"Prior authorization. – The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, <u>or major depressive disorder,</u> or (ii) HIV/AIDS, except that the Department of Health and Human Services shall continually review utilization of medications under the State Medical Assistance Program prescribed for Medicaid recipients for the treatment of mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, or major depressive disorder. For individuals 18 years of age and under who are prescribed three or more psychotropic medications, the Department shall implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns. When such patterns are identified, the Medical Director for the Division of Medical Assistance and the Chief of Clinical Policy for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require a peer-to-peer consultation with the target prescribers. Alternatives discussed during the peer-to-peer consultations shall be based upon:

a. Evidence-based criteria available regarding efficacy or safety of the covered treatments; and

b. Policy approval by a majority vote of the North Carolina Physicians Advisory Group (NCPAG).

The target prescriber has final decision-making authority to determine which prescription drug to prescribe or refill."

SECTION 2. Section 10.36(d)(29)b.1. of S.L. 2007-323 reads as rewritten:

"b. For children eligible for EPSDT services provided by:

1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse

practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, ~~certified~~ licensed clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and".

SECTION 3. Section 10.36(d)(29)c. of S.L. 2007-323 reads as rewritten:

"c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and ~~licensed~~ certified clinical supervisors, Medicaid-eligible adults may be self-referred."

SECTION 4. Section 10.55(n) of S.L. 2007-323 reads as rewritten:

"**SECTION 10.55.(n)** The sum of ~~one million five hundred thousand dollars ($1,500,000)~~ two million dollars ($2,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs for the 2007-2008 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate."

SECTION 5. Notwithstanding any other provision of S.L. 2007-323 to the contrary:

(1) Funding reductions in that act in the Department of Health and Human Services, Division of Medical Assistance, due to savings from prior authorization of all personal care services apply only to in-home personal care services.

(2) Funds appropriated in that act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in S.L. 2007-323 for Mental Health Services for Returning Vets shall be for one mental health program manager position in the 2007-2008 and 2008-2009 fiscal years.

(3) Funds appropriated in that act to the Department of Health and Human Services, Division of Health Service Regulation, for Health Care Personnel Registry and Rating System for Adult Care Homes shall be for 14 positions and related costs.

SECTION 5.1. Section 7.32(d)(12) of S.L. 2007-323 reads as rewritten:

"(12) Grants shall be made no later than November 1, ~~2007.~~2007, or as expeditiously as possible."

SECTION 5.2. S.L. 2007-323 is amended by adding a new section to read:

"**COMMUNITIES IN SCHOOLS FUNDS**

SECTION 7.41. Notwithstanding Page F-9, Item 36, of the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets, dated July 27, 2007, or any other provision of S.L. 2007-323, funds appropriated to the Department of Public Instruction as a pass-through for Communities in Schools of North Carolina, Inc., shall be used by that nonprofit corporation to assist with the establishment and development of local student support programs designed to prevent academic failure and dropouts. Communities in Schools of North Carolina, Inc., may provide these funds to local programs as "seed money" for both new and established programs and may use funds from its cash reserves for additional grants to local programs."

SECTION 5.3. S.L. 2007-323 is amended by adding a new section to read:

"**JOINT LEGISLATIVE STUDY COMMITTEE ON PUBLIC SCHOOL FUNDING FORMULAS**

SECTION 7.42.(a) There is created the Joint Legislative Study Committee on Public School Funding Formulas. The Committee shall consist of 10 members of the House of Representatives appointed by the Speaker of the House of Representatives and 10 members of the Senate appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Committee.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Committee may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical support staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee.

SECTION 7.42.(b) The Committee shall perform an extensive study of all public school funding formulas and distributions, including, but not limited to:

(1) School Capital Fund.
(2) Lottery School Construction Formula.
(3) Children with Disabilities.
(4) Limited English Proficiency.
(5) At-Risk Student Services/Alternative Schools.
(6) Improving Student Accountability.
(7) Disadvantaged Students Supplemental.
(8) Low-Wealth Counties Supplemental Funding.
(9) Small County Supplemental Funding.
(10) Transportation of Pupils.
(11) Academically or Intellectually Gifted.
(12) Number of school systems funded per county.

SECTION 7.42.(c) The Committee shall also study the State Board of Education's model for projecting average daily membership and focus particularly on how well the

model projects average daily membership in rapidly growing local school administrative units with a highly mobile population.

SECTION 7.42.(d) The Committee shall submit a report of its findings and recommendations, including any legislative recommendations, to the 2008 Regular Session of the 2007 General Assembly. The Committee shall terminate upon filing its report.

SECTION 7.42.(e) From funds available to the General Assembly, the Committee may use up to one million dollars ($1,000,000) to conduct this study, subject to the approval of the Legislative Services Commission chairs.

SECTION 7.42.(f) In preparation of the Committee's work, the chairs of the Legislative Services Commission may hire consultants prior to the first meeting of the Committee."

SECTION 6.1. Notwithstanding page H-4, line 18 of the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated July 27, 2007, or any other provision of S.L. 2007-323, funding is provided for grants to retrofit existing school bus engines to reduce diesel emissions only if House Bill 1912 of the 2007 General Assembly becomes law.

SECTION 7. If Senate Bill 613 is enacted and recodifies G.S. 143B-437.10 as G.S. 143B-437.010, then subdivision (4) of Section 13.14(d) of S.L. 2007-323 reads as rewritten:

"(3) It is located in a small town with a population under 10,000, an agrarian growth zone as defined in ~~G.S. 143B-437.10,~~ G.S. 143B-437.010, or an urban progress zone as defined in G.S. 143B-437.09."

SECTION 8. Section 14.25(m) of S.L. 2007-323 reads as rewritten:

"**SECTION 14.25.(m)** ~~The 10~~ Ten of the 11 assistant district attorney positions established for District 22A by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving Alexander and Iredell Counties in District 22. ~~The 10~~ Ten of the 11 assistant district attorney positions established for District 22B by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving ~~Alexander and Iredell~~ Davidson and Davie Counties in District 22."

SECTION 9. S.L. 2007-323 is amended by adding a new section to read:

"**EMERGENCY JUDGE PAY**

SECTION 14.26. G.S. 7A-52(b) reads as rewritten:

'(b) In addition to the compensation or retirement allowance the judge would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State the judge's actual expenses, plus ~~three hundred dollars ($300.00)~~ four hundred dollars ($400.00) for each day of active service rendered upon recall. No recalled retired trial judge shall receive from the State total annual compensation for judicial services in excess of that received by an active judge of the bench to which the judge is recalled.'"

SECTION 9.1.(a) G.S. 7A-305(a3), as enacted by Section 2 of S.L. 2007-293, reads as rewritten:

"(a3) A petition for a limited driving privilege under G.S. 20-20.1 is subject to the court costs assessed under subsection (a) of this ~~section plus an additional filing fee of one hundred dollars ($100.00). The additional filing fee must be remitted to the State Treasurer and used for support of the General Court of Justice.~~section."

SECTION 9.1.(b) G.S. 20-20.2, as enacted by Section 30.11(b) of S.L. 2007-323, reads as rewritten:

"§ **20-20.2. Processing fee for limited driving privilege.**

Upon the issuance of a limited driving privilege by a court under this Chapter, the applicant or petitioner must pay, in addition to any other costs associated with obtaining the privilege, ~~the~~ a processing fee ~~imposed under G.S. 7A-305(a3).~~ of one hundred dollars ($100.00). The applicant or petitioner shall pay this fee to the clerk of superior court in the county in which the limited driving privilege is issued. The fee must be remitted to the State Treasurer and used for support of the General Court of Justice. The failure to pay this fee shall render the privilege invalid."

SECTION 9.1.(c) Subsections (c) and (d) of Section 30.11 of S.L. 2007-323 are repealed.

SECTION 9.1.(d) Subsection (a) of this section becomes effective December 1, 2007. Subsection (b) of this section becomes effective August 1, 2007, and applies to costs assessed on or after that date. The remainder of this section is effective when it becomes law.

SECTION 9.2. S.L. 2007-323 is amended by adding a new section to read:

"**STUDY AVAILABILITY AND UTILIZATION OF MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES**

SECTION 19.4. The Department of Administration may conduct a study on the availability and utilization of minority-owned and women-owned business enterprises and examine relevant evidence of the effects of race-based and gender-based discrimination upon the utilization of such business enterprises in contracts for planning, design, preconstruction, construction, maintenance, renovation, or repairs of State building projects, including building projects performed by a private entity on a facility to be leased or purchased by the State. The study may include local government units or other public or private entities that receive State funding for a building or utility project, or other State grant funds for such projects performed by a private entity on a facility to be leased or purchased by the local government unit. The study may further examine relevant evidence of the effects of race-based and gender-based discrimination upon the utilization of such business enterprises in contracts for the procurement of materials, supplies, equipment, apparatus, or other goods and services by all State entities. The Director of the Budget is authorized within funds available in any State agency to use up to one million five hundred thousand dollars ($1,500,000) for the study authorized under this section."

SECTION 10. S.L. 2007-323 is amended by adding a new section to read:

"**AID TO PUBLIC LIBRARIES**

SECTION 21.4. Notwithstanding any other provision of this act to the contrary, the Department of Cultural Resources shall distribute increases in the appropriation to public libraries based on the existing formula for Aid to Public Libraries."

SECTION 10.1. S.L. 2007-323 is amended by adding a new section to read:

"**APPROPRIATION OF SPECIAL PLATES REVENUES**

SECTION 27.20.(a) G.S. 20-81.12 is amended by adding a new subsection to read:

'(c1) In accordance with G.S. 143C-1-2, the transfers mandated in this section are appropriations made by law.'

SECTION 27.20.(b) G.S. 20-79.7(c)(3) reads as rewritten:

'(3) The Division shall transfer the remaining revenue in the Special Registration Plate Account ~~quarterly~~ quarterly, and funds are hereby appropriated, as follows:

…."'

SECTION 11. Section 28.22A of S.L. 2007-323 is amended by adding a new subsection to read:

"**SECTION 28.22A.(m1)** G.S. 135-39.6A(a) reads as rewritten:

'(a) The Executive Administrator and Board of Trustees shall, from time to time, establish premium rates for the Teachers' and State Employees' Comprehensive Major Medical Plan except as they may be established by the General Assembly in the Current Operations Appropriations Act, and establish regulations for payment of the premiums. Premium rates shall be established for coverages where Medicare is the primary payer of health benefits separate and apart from the rates established for coverages where Medicare is not the primary payer of health benefits.'"

SECTION 12. Section 28.22A(o) of S.L. 2007-323 reads as rewritten:

"**SECTION 28.22A.(o)** Effective July 1, 2008, the Revisor of Statutes shall delete all statutory references to "Teachers' and State Employees' Comprehensive Major Medical Plan" and "North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan" and substitute therefor "State Health Plan for Teachers and State Employees."

SECTION 13. Notwithstanding any other provision of S.L. 2007-323:

(1) The capital planning funds appropriated in that act for the design of an addition to Scotland Correctional Institution shall be used for a minimum security addition rather than a medium security addition; and

(2) The capital planning funds appropriated in that act for the design of an addition to Lanesboro Correctional Institution shall be used for a medium security addition rather than a minimum security addition.

SECTION 14. Notwithstanding any other provision of S.L. 2007-323, the capital funds appropriated in this act for berth structure improvements at the Port of Morehead City are not limited to the construction of a new transit shed at the Port, nor is the total project cost limited to the sum of three million two hundred seventy thousand dollars ($3,270,000).

SECTION 14.1. S.L. 2007-323 is amended by adding a new section to read:

"**NORTH CAROLINA AQUARIUMS FUND EXPENDITURES**

SECTION 29.15. Notwithstanding G.S. 143C-8-7, and subject to approval by the Director of the Budget, during the 2007-2009 fiscal biennium, the Aquariums Division of the Department of Environment and Natural Resources may expend funds from the North Carolina Aquariums Fund for capital improvements projects."

SECTION 14.2. S.L. 2007-323 is amended by adding a new section to read:

"**TRANSFER OF REVENUE COLLECTIONS AND EXAMINATIONS DIVISION POSITIONS**

SECTION 24.6. Notwithstanding item 47 in the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets, dated July 27, 2007, the Department of Revenue shall move 39 positions in the Collections and Examinations Division from General Fund to receipt supported, as opposed to the 45 positions listed in the Committee Report."

SECTION 14.3. Section 24.3(c) of S.L. 2007-323 reads as rewritten:

"**SECTION 24.3.(c)** This section is effective for taxable years beginning on or after ~~January 1, 2007.~~January 1, 2008."

SECTION 14.4.(a) G.S. 105-522(a)(2), as enacted by Section 31.16.4(c) of S.L. 2007-323, reads as rewritten:

"(2) Hold harmless amount. – The sum of the ~~following:~~following distributed to a municipality for the month:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this ~~Chapter to the municipality for a month,~~ Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined ~~under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision.~~ by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount distributed under Article 40 of this Chapter. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. ~~If the difference is negative, the result increases the hold harmless amount.~~"

SECTION 14.4.(b) G.S. 105-523(a)(2), as enacted by Section 31.16.4(d) of S.L. 2007-323, reads as rewritten:

"(2) Repealed sales tax amount. – The sum of the ~~following:~~following distributed to a county for the month:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed ~~to a county~~ under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined ~~under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision.~~ by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount distributed under Article 40 of this Chapter. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. ~~If the difference is negative, the result increases the hold harmless amount.~~"

SECTION 14.4.(c) This section becomes effective October 1, 2009, and applies to distributions for months beginning on or after that date.

SECTION 14.5.(a) G.S. 105-538, as enacted by Section 31.17(b) of S.L. 2007-323, reads as rewritten:

"§ **105-538. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B. The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county. Notwithstanding the provisions of G.S. 105-467(c), during the 2008 calendar year a tax levied under this Article may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 60 days' advance notice of the new tax levy."

SECTION 14.5.(b) This section is effective when it becomes law.

SECTION 14.6.(a) G.S. 105-164.14(n), as enacted by Section 31.20(b) of S.L. 2007-323, reads as rewritten:

"(n) Analytical Services Supplies. – A taxpayer engaged in analytical services in this State is allowed a refund of ~~fifty percent (50%) of the eligible amount of~~ sales and use tax paid by it in this ~~State on~~ State. The amount of the refund is the greater of the following:

(1) Fifty percent (50%) of the eligible amount sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use taxes paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.

(2) Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.

A request for a refund must be in writing and must include any information and documentation that the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred."

SECTION 14.6.(b) This section becomes effective July 1, 2007, and applies to purchases made on or after that date.

SECTION 14.7.(a) G.S. 105-129.95, as enacted by Section 31.23(a) of S.L. 2007-323, reads as rewritten:

"§ **105-129.95. Definitions.**

The following definitions apply in this Article:

(1) Costs of construction. – The costs of acquiring and improving land, constructing buildings and other structures, ~~and~~ equipping the ~~facility.~~ facility, and constructing and equipping rail tracks to the railroad intermodal facility that are necessary to access and support facility operations. In the case of property owned or leased by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code.

(2) Eligible railroad intermodal facility. – A railroad intermodal facility whose costs of construction exceed thirty million dollars ($30,000,000).

(3) Intermodal facility. – A facility where freight is transferred from one mode of transportation to another.

(4) Railroad intermodal facility. – An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation."

SECTION 14.7.(b) This section becomes effective for taxable years beginning on or after January 1, 2007.

SECTION 14.8.(a) Section 24.4 of S.L. 2007-323 is repealed.

SECTION 14.8.(b) Notwithstanding Page J2, Item 8, and Page J16, Item 49 of the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated July 27, 2007, funds shall not be transferred from the Department of Revenue to the Department of Administration for the support of the positions of an Administrative Hearings Officer and an associated Administrative Assistant.

S**ECTION 14.8.(c)** Notwithstanding Section 24.4 of S.L. 2007-323, as repealed by this act, the actions taken by the Administrative Hearings Officer at the Department of Revenue from the period beginning July 1, 2007, are given full force and effect as if Section 24.4 of S.L. 2007-323 had never been enacted. Notwithstanding any provision of G.S. 105-259 to the contrary, any officer, employee, or agent of the State that provided access to tax information to the Administrative Hearings Officer or Administrative Assistant transferred under Section 24.4 of S.L. 2007-323 is not guilty of any offense to the extent that the provision of the information would have been authorized by that statute if the transfer had not occurred.

SECTION 14.9.(a) Section 31.2 of S.L. 2007-323 is amended by adding a new subsection to read:

"**SECTION 31.2.(d)** A retailer is not liable for an over-collection or under-collection of sales tax if the retailer has made a good faith effort to comply with the law and collect the proper amount of tax and has, due to the change in the rate of tax imposed under this section, over-collected or under-collected the amount of sales tax that is due. This subsection applies only to the period beginning August 1, 2007, and ending September 1, 2007."

SECTION 14.9.(b) This section is effective when it becomes law.

SECTION 15. Except as otherwise provided, this act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 4:10 p.m. on the 6th day of August, 2007.

Session Law 2007-346 **House Bill 818**

AN ACT TO AMEND THE LAWS PERTAINING TO THE PRACTICE OF MEDICINE AND TO AMEND THE LAWS PERTAINING TO THE PRACTICE OF DENTISTRY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-1A. Definitions.**

The following definitions apply in this Article:

(1) Board. – The North Carolina Medical Board.

(2) Hearing officer. – Any current or past member of the Board who is a physician, physician assistant, or nurse practitioner and has an active license or approval to practice medical acts, tasks, or functions issued by the Board, or any current or retired judge of the Office of Administrative Hearings, a State district court, a State superior court, the North Carolina Court of Appeals, the North Carolina Supreme Court, or of the federal judiciary who has an active license to practice law in North Carolina and who is a member in good standing of the North Carolina State Bar.

(3) Integrative medicine. – A diagnostic or therapeutic treatment that may not be considered a conventionally accepted medical treatment and that a licensed physician in the physician's professional opinion believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatments.

(4) License. – An authorization issued by the Board to a physician or physician assistant to practice medical acts, tasks, or functions.

(5) The practice of medicine or surgery. – The practice of medicine or surgery, for purposes of this Article, includes any of the following acts:

a. Advertising, holding out to the public, or representing in any manner that the individual is authorized to practice medicine in this State.

b. Offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other individual.

c. Offering or undertaking to prevent or diagnose, correct, prescribe for, administer to, or treat in any manner or by any means, methods, or devices any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any individual, including the management of pregnancy or parturition.

d. Offering or undertaking to perform any surgical operation on any individual.

e. Using the designation 'Doctor,' 'Doctor of Medicine,' 'Doctor of Osteopathy,' 'Doctor of Osteopathic Medicine,' 'Physician,' 'Surgeon,' 'Physician and Surgeon,' 'Dr.,' 'M.D.,' 'D.O.,' or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition, unless the designation additionally contains the description of or reference to another branch of the healing arts for which the individual holds a valid license in this State or the use of the designation 'Doctor' or 'Physician' is otherwise specifically permitted by law.

f. The performance of any act, within or without this State, described in this subdivision by use of any electronic or other means, including the Internet or telephone."

SECTION 2. G.S. 90-2 reads as rewritten:

"§ **90-2. Medical Board.**

(a) There is established the North Carolina Medical Board to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina. The Board shall consist of 12 members.

(1) Seven of the members shall be duly licensed physicians ~~elected and nominated to the Governor by the North Carolina Medical Society.~~recommended by the Review Panel and appointed by the Governor as set forth in G.S. 90-3.

(2) ~~Of the~~The remaining five ~~members,~~members shall all ~~to~~ be appointed by the ~~Governor,~~Governor as follows:

a. ~~one~~One shall be a duly licensed physician who is a doctor of osteopathy or a full-time faculty member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice or a member of The Old North State Medical ~~Society,~~Society. This Board position shall not be subject to recommendations of the Review Panel pursuant to G.S. 90-3.

b. ~~three~~Three shall be public ~~members and one~~members, and these Board positions shall not be subject to recommendations of the Review Panel pursuant to G.S. 90-3. A public member shall not be a health care provider nor the spouse of a health care provider. For the purpose of Board membership, "health care provider" means any licensed health care professional, agent or employee of a health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program as preparation to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

c. One shall be a physician assistant as defined in G.S. 90-18.1 or a nurse practitioner as defined in ~~G.S. 90-18.2.~~G.S. 90-18.2 as recommended by the Review Panel pursuant to G.S. 90-3. ~~A public member shall not be a health care provider nor the spouse of a health care provider. For purposes of board membership, "health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.~~

(a1) Each appointing and nominating authority shall endeavor to see, insofar as possible, that its appointees and nominees to the Board reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

(b) No member shall serve more than two complete consecutive three-year terms, except that each member shall serve until a successor is chosen and qualifies.

(c) Repealed by Session Laws 2003-366, s. 1, effective October 1, 2003.

(d) Any member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the ~~physician~~physician, physician assistant, or nurse practitioner membership of the Board shall be filled for the period of the unexpired term by the Governor from a list ~~of physicians~~ submitted by the ~~North Carolina Medical Society Executive Council.~~Review Panel pursuant to G.S. 90-3 except as provided in G.S. 90-2(a)(2)a. Any vacancy in the ~~public, physician assistant, or nurse practitioner~~public membership of the Board shall be filled by the Governor for the unexpired term.

(e) The North Carolina Medical Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as any private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

SECTION 3. G.S. 90-2.1 is repealed.

SECTION 4. G.S. 90-3 reads as rewritten:

"§ **90-3. ~~Medical Society nominates Board.~~Review Panel recommends certain Board members; criteria for recommendations.**

(a) ~~The Governor shall appoint as physician members of the Board physicians elected and nominated by the North Carolina Medical Society.~~There is created a Review Panel to review all applicants for the physician positions and the physician assistant or nurse practitioner position on the Board except as provided in G.S. 90-2(a)(2)a. The Review Panel shall consist of nine members, including four from the Medical Society, one from the Old North State Medical Society, one from the North Carolina Osteopathic Medical Association, one from the North Carolina Academy of Physician Assistants, one from the North Carolina Nurses Association Council of Nurse Practitioners, and one public member currently serving on the Board. All physicians, physician assistants, and nurse practitioners serving on the Review Panel shall be actively practicing in North Carolina.

The Review Panel shall contract for the independent administrative services needed to complete its functions and duties. The Board shall provide funds to pay the reasonable cost for the administrative services of the Review Panel. The Board shall convene the initial meeting of the Review Panel. The Review Panel shall elect a chair, and all subsequent meetings shall be convened by the Review Panel.

The Governor shall appoint Board members as provided in G.S. 90-2. The Review Panel shall attempt to make its recommendations to the Governor reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

The Review Panel and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law.

(b) To be considered qualified for a physician position or the physician assistant or nurse practitioner position on the Board, an applicant shall meet each of the following criteria:

(1) Hold an active, nonlimited license to practice medicine in North Carolina, or in the case of a physician assistant or nurse practitioner, hold an active license or approval to perform medical acts, tasks, and functions in North Carolina.

(2) Have an active clinical or teaching practice. For purposes of this subdivision, the term "active" means patient care, or instruction of students in an accredited medical school or residency, or clinical research program, for 20 hours or more per week.

(3) Have actively practiced in this State for at least five consecutive years immediately preceding the appointment.

(4) Intend to remain in active practice in this State for the duration of the term on the Board.

(5) Submit at least three letters of recommendation, either from individuals or from professional or other societies or organizations.

(6) Have no public disciplinary history with the Board or any other licensing board in this State or another state over the past 10 years before applying for appointment to the Board.

(7) Have no history of felony convictions of any kind.

(8) Have no misdemeanor convictions related to the practice of medicine.

(9) Indicate, in a manner prescribed by the Review Panel, that the applicant: (i) understands that the primary purpose of the Board is to protect the public; (ii) is willing to take appropriate disciplinary action against his or her peers for misconduct or violations of the standards of care or practice of medicine; and (iii) is aware of the time commitment needed to be a constructive member of the Board.

(c) The review panel shall recommend at least two qualified nominees for each open position on the Board. If the Governor chooses not to appoint either of the recommended nominees, the Review Panel shall recommend at least two new qualified nominees.

(d) Notice of open physician positions or the physician assistant or nurse practitioner position on the Board shall be sent to all physicians currently licensed to practice medicine in North Carolina and all physician assistants and nurse practitioners currently licensed or approved to perform medical acts, tasks, and functions in this State.

(e) Applicants for positions on the Board shall not be required to be members of any professional association or society, except as provided in G.S. 90-2(a)(2)a."

SECTION 5. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-5.1. Powers and duties of the Board.**

(a) The Board shall:

(1) Administer this Article.

(2) Issue interpretations of this Article.

(3) Adopt, amend, or repeal rules as may be necessary to carry out and enforce the provisions of this Article.

(4) Require an applicant or licensee to submit to the Board evidence of the applicant's or licensee's continuing competence in the practice of medicine.

(5) Regulate the retention and disposition of medical records, whether in the possession of a licensee or nonlicensee. In the case of the death of a licensee, the rules may provide for the disposition of the medical records by the estate of the licensee. This subsection shall not apply to records created or maintained by persons licensed under other Articles

of this Chapter or to medical records maintained in the normal course of business by licensed health care institutions.

(6) Appoint a temporary or permanent custodian for medical records abandoned by a licensee.

(7) Develop educational programs to facilitate licensee awareness of provisions contained in this Article and public awareness of the role and function of the Board.

(8) Develop and implement methods to identify dyscompetent physicians and physicians who fail to meet acceptable standards of care.

(9) Develop and implement methods to assess and improve physician practice.

(10) Develop and implement methods to ensure the ongoing competence of licensees.

(b) Nothing in subsection (a) of this section shall restrict or otherwise limit powers and duties conferred on the Board in other sections of this Article."

SECTION 6. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-5.2. Board to collect and publish certain data.**

(a) The Board shall require all physicians and physician assistants to report to the Board certain information, including, but not limited to, the following:

(1) The names of any schools of medicine or osteopathy attended and the year of graduation.

(2) Any graduate medical or osteopathic education at any institution approved by the Accreditation Council of Graduate Medical Education, the Committee for the Accreditation of Canadian Medical Schools, the American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.

(3) Any specialty board of certification as approved by the American Board of Medical Specialties, the Bureau of Osteopathic Specialists of American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.

(4) Specialty area of practice.

(5) Hospital affiliations.

(6) Address and telephone number of the primary practice setting.

(7) An e-mail address or facsimile number which shall not be made available to the public and shall be used for the purpose of expediting the dissemination of information about a public health emergency.

(8) Any final disciplinary order or other action required to be reported to the Board pursuant to G.S. 90-14.13 that results in a suspension or revocation of privileges.

(9) Any final disciplinary order or action of any regulatory board or agency including other state medical boards, the United States Food and Drug Administration, the United States Drug Enforcement Administration, Medicare, or the North Carolina Medicaid program.

(10) Conviction of a felony.

(11) Conviction of certain misdemeanors, occurring within the last 10 years, in accordance with rules adopted by the Board.

(12) Any medical license, active or inactive, granted by another state or country.

(13) Certain malpractice information received pursuant to G.S. 90-14.13 or from other sources in accordance with rules adopted by the Board.

(a1) Except as provided, the Board shall make information collected under G.S. 90-5.2(a) available to the public.

(b) The Board may adopt rules to implement this section.

(c) Failure to provide information as required by this section and in accordance with Board rules or knowingly providing false information may be considered unprofessional conduct as defined in G.S. 90-14(a)(6)."

SECTION 7. G.S. 90-6(a) is recodified as G.S. 90-8.1; G.S. 90-6(b) and (c), respectively, are recodified as G.S. 90-8.2(a) and (b), respectively; G.S. 90-12.1 is recodified as G.S. 90-12.4; G.S. 90-12.2 is recodified as G.S. 90-12.5; G.S. 90-15 is recodified as G.S. 90-13.1; and G.S. 90-15.1 is recodified as G.S. 90-13.2.

SECTION 8. G.S. 90-8.1, as recodified in Section 7 of this act, reads as rewritten:

"§ **90-8.1. Rules governing applicants for ~~license, examinations, etc.; appointment of subcommittees.~~licensure.**

~~(a)~~ The North Carolina Medical Board is empowered to ~~prescribe such~~adopt rules ~~as it may deem proper, governing applicants for license, admission to examinations, the conduct of applicants during examinations, and the conduct of examinations proper.~~that prescribe additional qualifications for an applicant, including education and examination requirements and application procedures."

SECTION 9. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new sections to read:

"**§ 90-9.1. Requirements for licensure as a physician under this Article.**

(a) Except as provided in G.S. 90-9.2, to be eligible for licensure as a physician under this Article, an applicant shall submit proof satisfactory to the Board that the applicant:

(1) Has passed each part of an examination described in G.S. 90-10.1;

(2) Is a graduate of:

a. A medical college approved by the Liaison Commission on Medical Education, the Committee for the Accreditation of Canadian Medical Schools, or an osteopathic college approved by the American Osteopathic Association and has successfully completed one year of training in a medical education program approved by the Board after graduation from medical school; or

b. A medical college approved by the Liaison Commission on Medical Education, the Committee for the Accreditation of Canadian Medical Schools, or an osteopathic college approved by the American Osteopathic Association, is a dentist licensed to practice dentistry under Article 2 of Chapter 90 of the General Statutes, and has been certified by the American Board of Oral and Maxillofacial Surgery after having completed a residency in an Oral and Maxillofacial Surgery Residency program approved by the Board before completion of medical school; and

(3) Is of good moral character.

(b) No license may be granted to any applicant who graduated from a medical or osteopathic college that has been disapproved by the Board pursuant to rules adopted by the Board.

(c) The Board may, by rule, require an applicant to comply with other requirements or submit additional information the Board deems appropriate.

"**§ 90-9.2. Requirements for graduates of foreign medical schools.**

(a) To be eligible for licensure under this section, an applicant who is a graduate of a medical school not approved by the Liaison Commission on Medical Education, the Committee for the Accreditation of Canadian Medical Schools, or the American Osteopathic Association shall submit proof satisfactory to the Board that the applicant:

(1) Has successfully completed three years of training in a medical education program approved by the Board after graduation from medical school;

(2) Is of good moral character;

(3) Has a currently valid standard certificate of Educational Commission for Foreign Medical Graduates (ECFMG); and

(4) Is able to communicate in English.

(b) The Board may waive ECFMG certification if the applicant:

(1) Has passed the ECFMG examination and successfully completed an approved Fifth Pathway Program. The applicant is required to provide the original ECFMG Certification Status Report from the ECFMG; or

(2) Has been licensed in another state on the basis of written examination before the establishment of ECFMG in 1958.

(c) The Board may, by rule, require an applicant to comply with other requirements or submit additional information the Board deems appropriate.

"**§ 90-9.3. Requirements for licensure as a physician assistant.**

(a) To be eligible for licensure as a physician assistant, an applicant shall submit proof satisfactory to the Board that the applicant:

(1) Has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Committee on Allied Health Education and Accreditation or by the Committee's predecessor or successor entities;

(2) Holds or previously held a certificate issued by the National Commission on Certification of Physician Assistants; and

(3) Is of good moral character.

(b) Before initiating practice of medical acts, tasks, or functions as a physician assistant, the physician assistant shall provide the Board the name, address, and telephone number of the physician who will supervise the physician assistant in the relevant medical setting.

(c) The Board may, by rule, require an applicant to comply with other requirements or submit additional information the Board deems appropriate. The Board may set fees for physician assistants pursuant to rules adopted by the Board.

"**§ 90-9.4. Requirements for licensure as an anesthesiologist assistant.**

Every applicant for licensure as an anesthesiologist assistant in the State shall meet the following criteria:

(1) Satisfy the North Carolina Medical Board that the applicant is of good moral character.

(2) Submit to the Board proof of completion of a graduate level training program accredited by the Commission of Accreditation of Allied Health Education Programs or its successor organization.

(3) Submit to the Board proof of current certification from the National Commission of Certification of Anesthesiologist Assistants (NCCAA)

or its successor organization, including passage of a certification examination administered by the NCCAA. The applicant shall take the certification exam within 12 months after completing training.

(4) Meet any additional qualifications for licensure pursuant to rules adopted by the Board."

SECTION 9.1. Section 1 of S.L. 2007-146 is repealed.

SECTION 10. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-10.1. Examinations accepted by the Board.**

The Board may administer or accept the following examinations for licensure:

(1) A State Board licensing examination.

(2) The National Board of Medical Examiners (NBME) examination or its successor.

(3) The United States Medical Licensing Examination (USMLE) of this section or its successor.

(4) The Federation Licensing Examination (FLEX) or its successor.

(5) Other examinations the Board deems equivalent to the examinations described in subdivisions (1) through (3) of this section pursuant to rules adopted by the Board."

SECTION 11. G.S. 90-11 reads as rewritten:

"§ **90-11. ~~Qualifications of applicant for license.~~Criminal background checks.**

~~(a) Every applicant for a license to practice medicine or to perform medical acts, tasks, and functions as a physician assistant in the State shall satisfy the North Carolina Medical Board that the applicant is of good moral character and meets the other qualifications for the issuance of a license before any such license is granted by the Board to the applicant.~~

(b) The Department of Justice may provide a criminal record check to the Board for a person who has applied for a license through the Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection."

SECTION 12. G.S. 90-12 is repealed.

SECTION 13.(a) G.S. 90-13.1, as recodified in Section 7 of this act, reads as rewritten:

"§ **90-13.1. License ~~fee; salaries, fees, and expenses of Board.~~ fees.**

Each applicant for a license to practice medicine and surgery in this State under either G.S. 90-9, 90-10, or 90-13 shall pay to the North Carolina Medical Board an application fee of three hundred fifty dollars ($350.00). Whenever a limited license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to

exceed one hundred fifty dollars ($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of one hundred dollars ($100.00), and where a limited license to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. ~~The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.~~

~~For the initial and annual registration of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount.~~"

SECTION 13.(b) Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-13.3. Salaries, fees, expenses of the Board.**

(a) The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board.

(b) The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per member for time spent in the performance and discharge of duties as a member. Any unexpended sum of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office."

SECTION 14. G.S. 90-14 reads as rewritten:

"§ **90-14. ~~Revocation, suspension, annulment or denial of license~~Disciplinary Authority.**

(a) The Board shall have the power to place on probation with or without conditions, impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public letters of concern, mandate free medical services, require satisfactory completion of treatment programs or remedial or educational training, fine, deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

(1) Immoral or dishonorable conduct.

(2) Producing or attempting to produce an abortion contrary to law.

(3) Made false statements or representations to the Board, or ~~who has~~ willfully concealed from the Board material information in connection with an application for a license, an application, request or petition for reinstatement or reactivation of a license, an annual registration of a license, or an investigation or inquiry by the Board.

(4) Repealed by Session Laws 1977, c. 838, s. 3.

(5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require a physician licensed by it to submit to a mental or physical examination by physicians designated by the Board before or after charges may be presented against the physician, and the results of the examination shall be admissible in evidence in a hearing before the Board.

(6) Unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without North Carolina. The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.

(7) Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine, or a conviction of a felony; provided that a felony conviction shall be treated as provided in subsection (c) of this section.

(8) By false representations has obtained or attempted to obtain practice, money or anything of value.

(9) Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which the physician has been educated.

(10) Adjudication of mental incompetency, which shall automatically suspend a license unless the Board orders otherwise.

(11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for ~~patients.~~patients or failing to maintain acceptable standards of one or more areas of professional physician practice. In this connection the Board may consider repeated acts of a physician indicating the physician's failure to properly treat a patient. The Board may, upon reasonable grounds, require a physician to submit to inquiries or examinations, written or oral, as the Board deems necessary to determine the professional qualifications of such licensee. In order to annul, suspend, deny, or revoke a license of an accused person, the Board shall find by the greater weight of the evidence that the care provided was not in accordance with the standards of practice for the procedures or treatments administered.

(11a) Not actively practiced medicine or practiced as a physician assistant, or having not maintained continued competency, as determined by the Board, for the two-year period immediately preceding the filing of an application for an initial license from the Board or a request, petition,

motion, or application to reactivate an inactive, suspended, or revoked license previously issued by the Board. The Board is authorized to adopt any rules or regulations it deems necessary to carry out the provisions of this subdivision.

(12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient, and upon a finding of the exploitation, the Board may order restitution be made to the payer of the bill, whether the patient or the insurer, by the physician; provided that a determination of the amount of restitution shall be based on credible testimony in the record.

(13) Having a license to practice medicine or the authority to practice medicine revoked, suspended, restricted, or acted against or having a license to practice medicine denied by the licensing authority of any jurisdiction. For purposes of this subdivision, the licensing authority's acceptance of a license to practice medicine voluntarily relinquished by a physician or relinquished by stipulation, consent order, or other settlement in response to or in anticipation of the filing of administrative charges against the physician's license, is an action against a license to practice medicine.

(14) The failure to respond, within a reasonable period of time and in a reasonable manner as determined by the Board, to inquiries from the Board concerning any matter affecting the license to practice medicine.

(15) The failure to complete an amount not to exceed 150 hours of continuing medical education during any three consecutive calendar years pursuant to rules adopted by the Board.

The Board may, in its discretion and upon such terms and conditions and for such period of time as it may prescribe, restore a license so revoked or otherwise acted upon, except that no license that has been revoked shall be restored for a period of two years following the date of revocation.

…."

SECTION 15. G.S. 90-14.2 reads as rewritten:

"§ **90-14.2. Hearing before disciplinary action.~~revocation or suspension of a license.~~**

Before the Board shall ~~revoke, restrict or suspend~~take disciplinary action against any license granted by it, the licensee shall be given a written notice indicating the general nature of the charges, accusation, or complaint made against him, which notice may be prepared by a committee or one or more members of the Board designated by the Board, and stating that such licensee will be given an opportunity to be heard concerning such charges or complaint at a time and place stated in such notice, or at a time and place to be thereafter designated by the Board, and the Board shall hold a public hearing not less than 30 days from the date of the service of such notice upon such licensee, at which such licensee may appear personally and through counsel, may cross examine witnesses and present evidence in his own behalf. A physician who is mentally incompetent shall be represented at such hearing and shall be served with notice as herein provided by and through a guardian ad litem appointed by the clerk of the court of the county in which the physician has his residence. Such licensee or physician may, if he desires, file written answers to the charges or complaints preferred against him within 30 days after

the service of such notice, which answer shall become a part of the record but shall not constitute evidence in the case."

SECTION 16. G.S. 90-14.3 reads as rewritten:

"§ **90-14.3. Service of notices.**

Any notice required by this Chapter may be served either personally by an employee of the Board or by an officer authorized by law to serve process, or by registered or certified mail, return receipt requested, directed to the licensee or applicant at his last known address as shown by the records of the Board. If notice is served personally, it shall be deemed to have been served at the time when the officer or employee of the Board delivers the notice to the person ~~addressed.~~addressed or delivers the notice at the licensee's or applicant's last known address as shown by records of the Board with a person of suitable age and discretion then residing therein. Where notice is served by registered or certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the ~~addressee, showing refusal of the addressee to accept the notice, or showing failure to locate the addressee at the last known address as shown by the records of the Board.~~licensee's or applicant's last known address as shown by the records of the Board, regardless of whether the notice was actually received or whether the notice was unclaimed or undeliverable for any reason."

SECTION 17. G.S. 90-14.4 is repealed.

SECTION 18. G.S. 90-14.5 reads as rewritten:

"§ **90-14.5. Use of hearing committee and ~~depositions.~~depositions; appointment of hearing officers.**

(a) The Board, in its discretion, may designate in writing three or more ~~of its members~~hearing officers to conduct hearings as a hearing committee to take evidence.

(b) Evidence and testimony may be presented at hearings before the Board or a hearing committee in the form of depositions before any person authorized to administer oaths in accordance with the procedure for the taking of depositions in civil actions in the superior court.

(c) The hearing committee shall submit a recommended decision that contains findings of fact and conclusions of law to the Board. Before the Board makes a final decision, it shall give each party an opportunity to file written exceptions to the recommended decision made by the hearing committee and to present oral arguments to the Board. A quorum of the Board will issue a final decision.

(d) Hearing officers are entitled to receive per diem compensation and reimbursement for expenses as authorized by the Board. The per diem compensation shall not exceed the amount allowed by G.S. 90-13.3."

SECTION 19. G.S. 90-14.6 reads as rewritten:

"§ **90-14.6. Evidence admissible.**

(a) ~~In~~ Except as otherwise provided in proceedings held pursuant to this Article the Board shall admit and hear evidence in the same manner and form as prescribed by law for civil actions. A complete record of such evidence shall be made, together with the other proceedings incident to such hearing.

(b) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, in proceedings held pursuant to this Article, the ~~licensee~~ individual under investigation may call witnesses, including medical practitioners licensed in the United ~~States, with expertise in the same field of practice as the licensee under investigation, and the Board shall consider this testimony.~~States with training and experience in the same field of practice as the individual under investigation and familiar with the standard of care among members of the same health care profession in North Carolina.

Witnesses shall not be restricted to experts certified by the American Board of Medical Specialties.

(c) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, statements contained in medical or scientific literature shall be competent evidence in proceedings held pursuant to this Article. Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available.

(d) When evidence is not reasonably available under the Rules of Civil Procedure and Rules of Evidence to show relevant facts, then the most reliable and substantial evidence available shall be admitted."

SECTION 20. G.S. 90-14.8 reads as rewritten:

"§ **90-14.8. Appeal from Board's decision taking disciplinary action on a license. ~~revoking or suspending a license.~~**

A physician whose license is revoked or suspended by the Board may obtain a review of the decision of the Board in the Superior Court of Wake County ~~or in the superior court in the county in which the hearing was held or upon agreement of the parties to the appeal in any other superior court of the State,~~ upon filing with the secretary of the Board a written notice of appeal within 20 days after the date of the service of the decision of the Board, stating all exceptions taken to the decision of the Board and indicating the court in which the appeal is to be heard.

Within 30 days after the receipt of a notice of appeal as herein provided, the Board shall prepare, certify and file with the clerk of ~~the superior court in the county to which the appeal is directed~~the Superior Court of Wake County the record of the case comprising a copy of the charges, notice of hearing, transcript of testimony, and copies of documents or other written evidence produced at the hearing, decision of the Board, and notice of appeal containing exceptions to the decision of the Board."

SECTION 21. G.S. 90-14.10 reads as rewritten:

"§ **90-14.10. Scope of review.**

Upon the review of the Board's decision ~~revoking or suspending~~taking disciplinary action on a license, the case shall be heard by the judge without a jury, upon the record, except that in cases of alleged omissions or errors in the record, testimony thereon may be taken by the court. The court may affirm the decision of the Board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the accused physician have been prejudiced because the findings or decisions of the Board are in violation of substantive or procedural law, or are not supported by competent, material, and substantial evidence admissible under this Article, or are arbitrary or capricious. At any time after the notice of appeal has been filed, the court may remand the case to the Board for the hearing of any additional evidence which is material and is not cumulative and which could not reasonably have been presented at the hearing before the Board."

SECTION 22. G.S. 90-16 reads as rewritten:

"§ **90-16. Self-reporting requirements; confidentiality of Board investigative information; cooperation with law enforcement; patient protection; Board to keep public records.**

(a) The North Carolina Medical Board shall keep a regular record of its proceedings ~~in a book kept for that purpose, together~~ with the names of the members of the Board present, the names of the applicants for license, and other information as to its

actions. ~~The North Carolina Medical Board shall cause to be entered in a separate book the name of each applicant to whom a license is issued to practice medicine or surgery, along with any information pertinent to such issuance.~~ The North Carolina Medical Board shall publish the names of those licensed ~~in three daily newspapers published in the State of North Carolina,~~ within 30 days after granting the ~~same. A transcript of any such entry in the record books, or certificate that there is not entered therein the name and proficiency or date of granting such license of a person charged with the violation of the provisions of this Article, certified under the hand of the secretary and the seals of the North Carolina Medical Board, shall be admitted as evidence in any court of this State when it is otherwise competent.~~license.

(b) The Board may in a closed session receive evidence involving or concerning the treatment of a patient who has not expressly or impliedly consented to the public disclosure of such treatment as may be necessary for the protection of the rights of such patient or of the accused physician and the full presentation of relevant evidence.

(c) All records, papers, investigative files, investigative reports, other investigative information and other documents containing information in the possession of or received or gathered by the Board, or its members or employees as a result of investigations, inquiries or interviews conducted in connection with a licensing, complaint or, disciplinary matter, or report of professional liability insurance awards or settlements pursuant to G.S. 90-14.13, shall not be considered public records within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Board, its employees or agents involved in the application for license or discipline of a license holder, except as provided in ~~subsection~~ subsections (d) and (e1) of this section. For purposes of this subsection, investigative information includes information relating to the identity of, and a report made by, a physician or other person performing an expert review for the ~~Board.~~Board and transcripts of any deposition taken by Board counsel in preparation for or anticipation of a hearing held pursuant to this Article but not admitted into evidence at the hearing.

(d) The Board shall provide the licensee or applicant with access to all information in its possession that the Board intends to offer into evidence in presenting its case in chief at the contested hearing on the matter, subject to any privilege or restriction set forth by rule, statute, or legal precedent, upon written request from a licensee or applicant who is the subject of a complaint or investigation, or from the licensee's or applicant's counsel, unless good cause is shown for delay. The Board is not required to provide any of the following:

(1) A Board investigative report.
(2) The identity of a non-testifying complainant.
(3) Attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Rules of Civil Procedure or the Rules of Evidence.

(e) Information furnished to a licensee or applicant, or counsel for a licensee or applicant, under subsection (d) of this section shall be subject to discovery or subpoena between and among the parties in a civil case in which the licensee is a party.

(e1) When the Board receives a complaint regarding the care of a patient, the Board shall inform the complainant of the disposition of the Board's inquiry into the complaint and the Board's basis for that disposition. Upon written request of a patient, the Board may provide the patient a licensee's written response to a complaint filed by the patient with the Board regarding the patient's care. Upon written request of a

complainant, who is not the patient but is authorized by State and federal law to receive protected health information about the patient, the Board may provide the complainant a licensee's written response to a complaint filed with the Board regarding the patient's care. Any information furnished to the patient or complainant pursuant to this subsection shall be inadmissible in evidence in any civil proceeding. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were included in the Board's review or were the subject of information furnished to the patient or complainant pursuant to this subsection.

(f) Any notice or statement of charges against any licensee, or any notice to any licensee of a hearing in any proceeding shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of any such investigation, inquiry or interview; and provided, further, that if any such record, paper or other document containing information theretofore collected and compiled by the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes.

(g) In any proceeding before the Board, in any record of any hearing before the Board, and in the notice of the charges against any licensee (notwithstanding any provision herein to the contrary) the Board may withhold from public disclosure the identity of a patient who has not expressly or impliedly consented to the public disclosure of treatment by the accused physician.

(h) If investigative information in the possession of the Board, its employees, or agents indicates that a crime may have been committed, the Board ~~shall~~ may report the information to the appropriate law enforcement ~~agency.~~agency or district attorney of the district in which the offense was committed.

(i) The Board shall cooperate with and assist a law enforcement agency or district attorney conducting a criminal investigation or prosecution of a licensee by providing information that is relevant to the criminal investigation or prosecution to the investigating ~~agency.~~agency or district attorney. Information disclosed by the Board to an investigative agency or district attorney remains confidential and may not be disclosed by the investigating agency except as necessary to further the investigation.

(j) All persons licensed under this Article shall self-report to the Board within 30 days of arrest or indictment any of the following:

(1) Any felony arrest or indictment.

(2) Any arrest for driving while impaired or driving under the influence.

(3) Any arrest or indictment for the possession, use, or sale of any controlled substance.

(k) The Board, its members and staff, may release confidential or nonpublic information to any health care licensure board in this State or another state or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities about the issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of a license by a licensee of the Board, including the reasons for the action, or an investigative report made by the Board. The Board shall notify the licensee within 60 days after the information is transmitted. A summary of the information that is being transmitted shall be furnished to the licensee. If the licensee requests in writing within 30 days after being notified that the information has been transmitted, the licensee shall be furnished a copy of all information so transmitted. The notice or copies of the information shall not be provided if the information relates to an

ongoing criminal investigation by any law enforcement agency or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities."

SECTION 23. G.S. 90-18 reads as rewritten:

"§ **90-18. Practicing without license; ~~practicing defined;~~ penalties.**

(a) No person shall perform any act constituting the practice of medicine or surgery, as defined in this Article, or any of the branches thereof, ~~nor in any case prescribe for the cure of diseases~~ unless the person shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice medicine or surgery without being duly licensed and registered, as provided in this Article, the person shall not be allowed to maintain any action to collect any fee for such services. The person so practicing without license shall be guilty of a Class 1 misdemeanor, except that if the person so practicing without a license is an out-of-state practitioner who has not been licensed and registered to practice medicine or surgery in this State, the person shall be guilty of a Class I felony.

~~(b) Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person. A person who resides in any state or foreign country and who, by use of any electronic or other mediums, performs any of the acts described in this subsection, including prescribing medication by use of the Internet or a toll-free telephone number, shall be regarded as practicing medicine or surgery and shall be subject to the provisions of this Article and appropriate regulation by the North Carolina Medical Board.~~

(c) The following shall not constitute practicing medicine or surgery as defined in ~~subsection (b) of this section:~~this Article:

(1) The administration of domestic or family ~~remedies in cases of emergency.~~remedies.

(2) The practice of dentistry by any legally licensed dentist engaged in the practice of dentistry and dental surgery.

(3) The practice of pharmacy by any legally licensed pharmacist engaged in the practice of pharmacy.

(3a) The provision of drug therapy management by a licensed pharmacist engaged in the practice of pharmacy pursuant to an agreement that is physician, pharmacist, patient, and disease specific when performed in accordance with rules and rules developed by a joint subcommittee of the North Carolina Medical Board and the North Carolina Board of Pharmacy and approved by both Boards. Drug therapy management shall be defined as: (i) the implementation of predetermined drug therapy which includes diagnosis and product selection by the patient's physician; (ii) modification of prescribed drug dosages, dosage forms, and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be pursuant to an agreement that is physician, pharmacist, patient, and disease specific.

(4) The practice of medicine and surgery by any surgeon or physician of the United States army, navy, or public health service in the discharge of his official duties.

(5) The treatment of the sick or suffering by mental or spiritual means without the use of any drugs or other material means.

(6) The practice of optometry by any legally licensed optometrist engaged in the practice of optometry.

(7) The practice of midwifery as defined in G.S. 90-178.2.

(8) The practice of ~~chiropody~~podiatric medicine and surgery by any legally licensed ~~chiropodist~~podiatric physician when engaged in the practice of ~~chiropody, and without the use of any drug.~~podiatry as defined in Article 12A of this Chapter.

(9) The practice of osteopathy by any legally licensed osteopath when engaged in the practice of osteopathy as defined by law, and especially G.S. 90-129.

(10) The practice of chiropractic by any legally licensed chiropractor when engaged in the practice of chiropractic as defined by law, and without the use of any drug or surgery.

(11) The practice of medicine or surgery by any nonregistered reputable physician or surgeon who comes into this State, either in person or by use of any electronic or other mediums, on an irregular basis, to consult with a resident registered physician or to consult with personnel at a medical school about educational or medical training. This proviso shall not apply to physicians resident in a neighboring state and regularly practicing in this State.

(11a) The practice of medicine or surgery by any physician who comes into this State to practice medicine or surgery so long as:

a. The physician or surgeon has an oral or written agreement with a sports team to provide general or emergency medical care to the team members, coaching staff, or families traveling with the team for a specific sporting event taking place in this State; and

b. The physician or surgeon does not provide care or consultation to any person residing in this State other than an individual described in sub-subdivision a. of this subdivision.

The exemption shall remain in force while the physician or surgeon is traveling with the team. The exemption shall not exceed 10 days per individual sporting event. However, the executive director of the Board may grant a physician or surgeon additional time for exemption of up to 20 additional days per individual sporting event.

(12) Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. "Radiology" shall be defined as, that method of medical practice in which demonstration and examination of the normal and abnormal structures, parts or functions of the human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium.

Nothing in this subdivision shall prevent the practice of radiology by any person licensed under the provisions of Articles 2, 7, 8, and 12A of this Chapter.

(13) The performance of any medical acts, tasks, and functions by a licensed physician assistant at the direction or under the supervision of a physician in accordance with rules adopted by the Board. This subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks, and functions that are otherwise permitted by law or established by custom. The Board shall authorize physician assistants licensed in this State or another state to perform specific medical acts, tasks, and functions during a disaster.

(14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the North Carolina Medical Board and the Board of Nursing and adopted by both boards.

(15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist under the provisions of Article 25 of this Chapter.

(16) The practice of acupuncture by a licensed acupuncturist in accordance with the provisions of Article 30 of this Chapter.

(17) The use of an automated external defibrillator as provided in G.S. 90-21.15.

(18) The practice of medicine by any nonregistered physician residing in another state or foreign country who is contacted by one of the physician's regular patients for treatment by use of the Internet or a toll-free telephone number while the physician's patient is temporarily in this State.

(19) The practice of medicine or surgery by any physician who comes into this State to practice medicine or surgery at a camp that specializes in providing therapeutic recreation for individuals with chronic illnesses, as long as all the following conditions are satisfied:

a. The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice medicine in another state.

b. The physician provides services only at the camp or in connection with camp events or camp activities that occur off the grounds of the camp.

c. The physician receives no compensation for the services.

d. The physician provides those services within this State for no more than 30 days per calendar year.

e. The camp has a medical director who holds an unrestricted license to practice medicine and surgery issued under this Article."

SECTION 24. G.S. 90-18.1(a) reads as rewritten:

"(a) Any person who is licensed under the provisions of G.S. ~~90-11~~90-9.3 to perform medical acts, tasks, and functions as an assistant to a physician may use the title "physician assistant". Any other person who uses the title in any form or holds out to be

a physician assistant or to be so licensed, shall be deemed to be in violation of this Article."

SECTION 25. G.S. 90-18.1 is amended by adding the following new subsections to read:

"(g) Any person who is licensed under G.S. 90-9.3 to perform medical acts, tasks, and functions as an assistant to a physician shall comply with each of the following:

(1) Maintain a current and active license to practice in this State.

(2) Maintain an active registration with the Board.

(3) Have a current Intent to Practice form filed with the Board.

(h) A physician assistant serving active duty in the United States military is exempt from the requirements of subdivision (g)(3) of this section.

(i) A physician assistant's license shall become inactive any time the holder fails to comply with the requirements of subsection (g) of this section. A physician assistant with an inactive license shall not practice medical acts, tasks, or functions. The Board shall retain jurisdiction over the holder of the inactive license."

SECTION 26. G.S. 90-21 is repealed.

SECTION 27. Article 2 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-37.2. Temporary permits for volunteer dentists.**

(a) The North Carolina State Board of Dental Examiners may issue to a person who is not licensed to practice dentistry in this State and who is a graduate of a Board-approved dental school, college, or institution a temporary volunteer permit authorizing such person to practice dentistry under the supervision or direction of a dentist duly licensed in this State. A temporary volunteer permit shall be issued only to those dentists who are licensed in another Board-approved state or jurisdiction, have never been subject to discipline, and have passed a patient-based clinical examination substantially similar to the clinical examination offered in this State. The issuance of a temporary volunteer permit is subject to the following conditions:

(1) A temporary volunteer permit shall be valid no more than one year from the date of issue; provided, however, that the Board may renew the permit for additional one-year periods.

(2) The holder of a temporary volunteer permit may practice only under the supervision or direction of one or more dentists duly licensed to practice in this State.

(3) The holder of a temporary volunteer permit may practice dentistry only: (i) as a volunteer in a hospital, sanatorium, temporary clinic, or like institution which is licensed or approved by the State of North Carolina and approved by the Board; (ii) as a volunteer for a nonprofit health care facility serving low-income populations and approved by the State Health Director or his designee or approved by the Board; or (iii) as a volunteer for the State of North Carolina or an agency or political subdivision thereof, or any other governmental entity within the State of North Carolina, when such service is approved by the Board.

(4) The holder of a temporary volunteer permit shall receive no fee or monetary compensation of any kind or nature for any dental service performed.

(5) The practice of dentistry by the holder of a temporary volunteer permit shall be strictly limited to the confines of and to the registered patients

of the hospital, sanatorium, temporary clinic, or approved nonprofit health care facilities for which he is working or to the patients officially served by the governmental entity to which he is offering his volunteer services.

(6) The holder of a temporary volunteer permit shall be subject to discipline by the Board for those actions constituting the practice of dentistry by G.S. 90-29 occurring while practicing in this State.

(7) Any person seeking a temporary volunteer permit must file with the Board such proof as is required by the Board to determine if the applicant has a valid unrestricted dental license in another state or jurisdiction, has not been subject to discipline by any licensing board, has a proven record of clinical safety and is otherwise qualified to practice dentistry in this State.

(8) There shall be no fee associated with the issuance of a temporary volunteer permit for the practice of dentistry.

(b) The Board is authorized to make rules consistent with this section to regulate the practice of dentistry for those issued a temporary volunteer permit.

SECTION 28. Sections 2 and 4 of this act become effective January 1, 2008. The remainder of this act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 6:35 p.m. on the 7th day of August, 2007.

Session Law 2007-347 **House Bill 1110**

AN ACT TO MAKE TECHNICAL CHANGES TO THE STATE GOVERNMENT ETHICS ACT, THE LEGISLATIVE ETHICS ACT, AND THE LOBBYING LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-87(a) reads as rewritten:

"§ **120-87. Disclosure of confidential information.**

(a) No legislator shall use or disclose in any way confidential information gained in the course of the legislator's official activities or by reason of the legislator's official position that could result in financial gain for: (i) the legislator; (ii) a business with which the legislator is associated; (iii) a nonprofit corporation or organization with which the legislator is associated; (iv) a member of the legislator's immediate ~~household;~~family; or (v) any other person."

SECTION 2. G.S. 120-103.1(c) reads as rewritten:

"(c) Investigation of Complaints by the Committee. – The Committee shall investigate all complaints properly before the Committee in a timely manner. Within 60 days of the referral of the complaint with the Committee, the Committee shall refer the complaint for hearing in accordance with subsection (i) of this section or initiate an investigation of a complaint or dismiss the complaint. In determining whether there is reason to believe that a violation has or may have occurred, a member of the Committee ~~can~~ may take general notice of available information even if not formally provided to the Committee in the form of a complaint. The Committee may utilize the services of a hired investigator when conducting investigations."

SECTION 3. G.S. 120-104(c) reads as rewritten:

"(c) A legislator who acts in reliance on a formal advisory opinion issued by the Committee under this section shall be entitled to the immunity granted under ~~G.S. 138A-13(a).~~G.S. 138A-13(b)."

SECTION 4. G.S. 120C-206(b) reads as rewritten:

"(b) The form of the authorization shall be prescribed by the Secretary of State and shall include the lobbyist's principal's full name, complete address, and telephone number, name and title of ~~the official signing~~ any official authorized to sign for the lobbyist's principal, and the name of each lobbyist registered to represent that principal."

SECTION 5.(a) G.S. 120C-302 is recodified as G.S. 163-278.13C.

SECTION 5.(b) G.S. 163-278.13C, as enacted by Section 5(a) of this act, is amended by adding a new subsection to read:

"(d) For purposes of this section, the term "lobbyist" shall mean an individual registered as a lobbyist under Chapter 120C of the General Statutes."

SECTION 6.(a) G.S. 120C-500 reads as rewritten:

"§ **120C-500. Liaison personnel.**

(a) All agencies and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive ~~branch, except local units of government,~~ branch shall designate liaison personnel to lobby for legislative action. This subsection shall not apply to units of local government, or a State agency or board with no staff.

(b) No State funds may be used to contract with persons who are not employed by the State to lobby legislators and legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel under G.S. 147-17.

(c) No more than two persons may be designated as liaison personnel for each agency and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch."

SECTION 6.(b) G.S. 120C-100(a)(8) reads as rewritten:

"(8) Liaison personnel. – Any State ~~employee~~ employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as set forth in that person's job description, include lobbying designated individuals."

SECTION 7. G.S. 138A-3(13) reads as rewritten:

"(13) Extended family. – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal ~~ascendant~~ descendant, spouse's lineal ~~descendant~~ ascendant, spouse's sibling, and the spouse of any of these persons."

SECTION 8. G.S. 138A-3(24) reads as rewritten:

"(24) Nonprofit corporation or organization with which associated. – Any not for profit ~~public or private enterprise,~~corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the person or any member of the person's immediate family is a director, officer, governing board member, employee, lobbyist registered as under Chapter 120C of the General Statutes, or independent ~~contractor as of December 31 of the preceding year.~~contractor. Nonprofit corporation

or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this State."

SECTION 9.(a) G.S. 138A-14 reads as rewritten:

"§ **138A-14. Ethics education program.**

(a) The Commission shall develop and implement an ethics education and awareness program designed to instill in all covered persons and their immediate staffs, and legislative employees, a keen and continuing awareness of their ethical obligations and a sensitivity to situations that might result in real or potential conflicts of ~~interest or appearances of conflicts of~~ interest.

(b) The Commission shall make basic ethics education and awareness presentations to all public servants and their immediate staffs, upon their election, appointment, or employment, and shall offer periodic refresher presentations as the Commission deems appropriate. Every public servant and the immediate staff of every public servant shall participate in an ethics presentation approved by the Commission within six months of the person's election, reelection, appointment, or employment, and shall attend refresher ethics education presentations at least every two years thereafter in a manner as the Commission deems appropriate.

(c) The Commission, jointly with the Committee, shall make basic ethics education and awareness presentations to all legislators and legislative employees upon their election, reelection, appointment, or employment and shall offer periodic refresher presentations as the Commission and the Committee deem appropriate. Every legislator and legislative employee shall participate in an ethics presentation approved by the Commission and Committee within three months of the person's election, reelection, appointment, or ~~employment~~ employment, and every legislative employee shall attend refresher ethics education presentations at least every two years thereafter, in a manner as the Commission and Committee deem appropriate.

(d) Upon request, the Commission shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for ethics education, conflict identification, and conflict avoidance.

(e) Each agency head shall designate an ethics liaison who shall maintain active communication with the Commission on all agency ethical issues. The ethics liaison shall continuously assess and advise the Commission of any issues or conduct which might reasonably be expected to result in a conflict of interest and seek advice and rulings from the Commission as to their appropriate resolution.

(f) The Commission shall publish a newsletter containing summaries of the Commission's opinions, policies, procedures, and interpretive bulletins as issued from time to time. The newsletter shall be distributed to all covered persons and legislative employees. Publication under this subsection may be done electronically.

(g) The Commission shall assemble and maintain a collection of relevant State laws, rules, and regulations that set forth ethical standards applicable to covered persons. This collection shall be made available electronically as resource material to public servants, and ethics liaisons, upon request.

(h) As used in this section, "immediate staff" means those individuals who report directly to the public servant.

(i) This section shall not apply to judicial officers."

SECTION 9.(b) G.S. 138A-15 reads as rewritten:

"§ **138A-15. Duties of heads of State agencies.**

(a) The head of each State agency, including the chair of each board subject to this Chapter, shall take an active role in furthering ethics in public service and ensuring compliance with this Chapter. The head of each State agency and the chair of each board shall make a conscientious, good-faith effort to assist public servants within the agency or on the board in monitoring their personal, financial, and professional affairs to avoid taking any action that results in a conflict of ~~interest or the appearance of a conflict.~~interest.

(b) The head of each State agency, including the chair of each board subject to this Chapter, shall maintain familiarity with and stay knowledgeable of the reports, opinions, newsletters, and other communications from the Commission regarding ethics in general and the interpretation and enforcement of this Chapter. The head of each State agency and the chair of each board shall also maintain familiarity with and stay knowledgeable of the Commission's reports, evaluations, opinions, or findings regarding individual public servants in that person's agency or on that person's board, or under that person's supervision or control, including all reports, evaluations, opinions, or findings pertaining to actual or potential conflicts of interest.

(c) When an actual or potential conflict of interest is cited by the Commission under G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with this Chapter.

(d) The head of each State agency, including the chair of each board subject to this Chapter, shall periodically remind public servants under that person's authority of the public servant's duties to the public under the ethical standards and rules of conduct in this Chapter, including the duty of each public servant to continually monitor, evaluate, and manage the public servant's personal, financial, and professional affairs to ensure the absence of conflicts of ~~interest or appearances of conflict.~~ interest.

(e) At the beginning of any meeting of a board, the chair shall remind all members of their duty to avoid conflicts of interest ~~and appearances of conflict~~ under this Chapter. The chair also shall inquire as to whether there is any known conflict of interest ~~or appearance of conflict~~ with respect to any matters coming before the board at that time.

(f) The head of each State agency, including the chair of each board subject to this Chapter, shall ensure that legal counsel employed by or assigned to their agency or board are familiar with the provisions of this Chapter, including the Ethical Standards for Covered Persons set forth in Article 4 of this Chapter, and are available to advise public servants on the ethical considerations involved in carrying out their public duties in the best interest of the public. Legal counsel so engaged may consult with the Commission, seek the Commission's assistance or advice, and refer public servants and others to the Commission as appropriate.

(g) Taking into consideration the individual autonomy, needs, and circumstances of each agency and board, the head of each State agency, including the chair of each board subject to this Chapter, shall consider the need for the development and implementation of in-house educational programs, procedures, or policies tailored to meet the agency's or board's particular needs for ethics education, conflict identification, and conflict avoidance. This includes the periodic presentation to all agency heads, their chief deputies or assistants, other public servants under their supervision or control, and members of boards, of the basic ethics education and awareness presentation outlined in G.S. 138A-14 and any other workshop or seminar program the agency head or board

chair deems necessary in implementing this Chapter. Agency heads and board chairs may request reasonable assistance from the Commission in complying with the requirements of this subsection.

(h) As soon as reasonably practicable after the designation, hiring, or promotion of their chief deputies, assistants, or other public servants under their supervision or control, or learning of the appointment or election of other public servants to a board covered under this Chapter, all agency heads and board chairs shall (i) notify the Commission of such designation, hiring, promotion, appointment, or election and (ii) provide these public servants with copies of this Chapter and all applicable financial disclosure forms, if these materials and forms have not been previously provided to these public servants in connection with their designation, hiring, promotion, appointment, or election. In order to avoid duplication of effort, agency heads and board chairs shall coordinate this effort with the Commission's staff."

SECTION 10. G.S. 138A-23 reads as rewritten:

"§ **138A-23. Statements of economic interest as public records.**

(a) The statements of economic interest filed by prospective public servants under this Article for appointed or employed positions and written evaluations by the Commission of these statements are not public records until the prospective public servant is appointed or employed by the State. All other statements of economic interest and all other written evaluations by the Commission of those statements are public records.

(b) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for persons elected by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the election and made available to all members of the General Assembly. The statements of economic interest filed by public servants elected to positions by the General Assembly, and written evaluations by the Commission of those statements, are not public records until the prospective public servant is sworn into office.

(c) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for persons confirmed for appointment as a public servant by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the appointment. The statements of economic interest filed by prospective public servants for confirmation for appointment by the General Assembly, and written evaluations by the Commission of those statements, are public records at the time of the announcement of the appointment."

SECTION 11. G.S. 138A-32(b) reads as rewritten:

"(b) A covered person may not solicit for a charitable purpose any ~~gift~~ thing of monetary value from any subordinate State employee. This subsection shall not apply to generic written solicitations to all members of a class of subordinates. Nothing in this subsection shall prohibit a covered person from serving as the honorary head of the State Employees Combined Campaign."

SECTION 12. G.S. 138A-36(a) reads as rewritten:

"(a) Except as permitted by subsection (d) of this section and under G.S. 138A-38, no public servant acting in that capacity, authorized to perform an official action requiring the exercise of discretion, shall knowingly participate in an official action by the employing entity if the public servant, a member of the public servant's extended family, ~~or~~ a business with which the public servant is associated, or a nonprofit

corporation or organization with which the public servant is associated, has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could reasonably be inferred that the interest or benefit would influence the public servant's participation in the official action. A potential benefit includes ~~a~~ an economic or financial detriment to a business competitor of (i) the public servant, (ii) a member of the public servant's extended family, ~~or~~ (iii) a business with which the public servant is ~~associated.~~ associated, or (iv) a nonprofit corporation or organization with which the public servant is associated. A benefit also includes an economic or financial detriment to (i) the public servant, (ii) a member of the public servant's extended family, (iii) a business with which the public servant is associated, or (iv) a nonprofit corporation or organization with which the public servant is associated."

SECTION 13. G.S. 138A-37(a) reads as rewritten:

"(a) Except as permitted under G.S. 138A-38, no legislator shall knowingly participate in a legislative action if the legislator, a member of the legislator's extended family, the legislator's client, ~~or~~ a business with which the legislator is associated, or a nonprofit corporation or organization with which the legislator is associated, has an economic interest in, or may reasonably and foreseeably benefit from the action, and if after considering whether the legislator's judgment would be substantially influenced by the interest and considering the need for the legislator's particular contribution, including special knowledge of the subject matter to the effective functioning of the legislature, the legislator concludes that an actual economic interest does exist which would impair the legislator's independence of judgment. A potential benefit includes ~~a~~ an economic or financial detriment to a business competitor of (i) the legislator, (ii) a member of the legislator's extended family, ~~or~~ (iii) a business with which the legislator is ~~associated.~~associated, or (iv) a nonprofit corporation or organization with which the legislator is associated. A benefit also includes an economic or financial detriment to (i) the legislator, (ii) a member of the legislator's extended family, (iii) a business with which the legislator is associated, or (iv) a nonprofit corporation or organization with which the legislator is associated. The legislator shall submit in writing to the principal clerk of the house of which the legislator is a member the reasons for the abstention from participation in the legislative matter."

SECTION 14. G.S. 138A-38 reads as rewritten:

"§ **138A-38. Permitted participation exception.**

(a) Notwithstanding G.S. 138A-36 and G.S. 138A-37, a covered person may participate in an official action or legislative action under any of the following circumstances except as specifically limited:

(1) The only interest or reasonably foreseeable benefit or detriment that accrues to the covered person, the covered person's extended family, ~~or~~ business with which the covered person is ~~associated~~ associated, or nonprofit corporation or organization with which the covered person is associated as a member of a profession, occupation, or general class is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.

(2) When an official or legislative action affects or would affect the covered person's compensation and allowances as a covered person.

(3) Before the covered person participated in the official or legislative action, the covered person requested and received from the Commission or Committee a written advisory opinion that authorized

the participation. In authorizing the participation under this subdivision, the Commission or Committee shall consider the need for the legislator's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the General Assembly.

(4) Before participating in an official action, a public servant made full written disclosure to the public servant's employing entity which then made a written determination that the interest or benefit would neither impair the public servant's independence of judgment nor influence the public servant's participation in the official action. The employing entity shall file a copy of that written determination with the Commission.

(5) When action is ministerial only and does not require the exercise of discretion.

(6) When a public or legislative body records in its minutes that it cannot obtain a quorum in order to take the official or legislative action because the covered person is disqualified from acting under G.S. 130-36, G.S. 138A-37, or this section, the covered person may be counted for purposes of a quorum, but shall otherwise abstain from taking any further action.

(7) When a public servant notifies the Commission in writing that the public servant judicial employee, or someone whom the public servant appoints to act in the public servant's stead, or both, are the only individuals having legal authority to take an official action, and the public servant discloses in writing the circumstances and nature of the conflict of interest.

(b) This section shall not allow participation in an official action prohibited by G.S. 14-234."

SECTION 15. G.S. 138A-40 reads as rewritten:

"§ **138A-40. Employment and supervision of members of covered person's or legislative employee's extended family.**

A covered person or legislative employee shall not cause the employment, appointment, promotion, transfer, or advancement of an extended family member of the covered person or legislative employee to a State office, or a position to which the covered person or legislative employee supervises or manages, except for positions at the General Assembly as permitted ~~by the Legislative Services Commission.~~ under G.S. 120-32(2). A public servant or legislative employee shall not supervise, manage, or participate in an action relating to the discipline of a member of the public servant's or legislative employee's extended family, except as specifically authorized by the public servant's or legislative employee's employing entity."

SECTION 16. Section 23(b) of S.L. 2006-201 reads as rewritten:

"**SECTION 23.(b)** Public servants holding positions on January 1, 2007, shall participate in ethics education presentations under G.S. 138A-14 and lobbying education programs under G.S. 120C-103 on or before January 1, 2008."

SECTION 17. Section 6 of this act becomes effective October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:58 a.m. on the 9th day of August, 2007.

Session Law 2007-348 **House Bill 1111**

AN ACT TO MAKE CLARIFYING CHANGES TO THE STATE GOVERNMENT ETHICS ACT, THE LEGISLATIVE ETHICS ACT, AND THE LOBBYING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-102(a)(5) reads as rewritten:

"(5) Prepare a list of ethical principles and guidelines to be used by legislators and legislative employees to identify potential conflicts of interest and prohibited behavior, prepare advisory memoranda to legislators and legislative employees on specific ethical concerns, and ~~to~~ suggest rules of conduct that shall be adhered to by legislators and legislative employees."

SECTION 2. G.S. 120-103.1(a) reads as rewritten:

"§ **120-103.1. Investigations by the Committee.**

(a) Institution of Proceedings. – On its own motion, or upon receipt of a referral of a complaint from the State Ethics Commission under Chapter 138A of the General Statutes, the Committee shall conduct an investigation into any of the following:

(1) The application or alleged violation of Chapter 138A of the General Statutes and ~~Part 1~~ of this Article.

~~(2) The application or alleged violation of rules adopted in accordance with G.S. 120-102.~~

(3) The alleged violation of the criminal law by a legislator while acting in the legislator's official capacity as a participant in the lawmaking process."

SECTION 2.5. G.S. 120-103.1(h) reads as rewritten:

"(h) Notice. – If at the end of its preliminary inquiry, the Committee determines that probable cause exists to proceed with further investigation into the conduct of a legislator, the Committee shall provide written notice to the individual who filed the complaint and the legislator as to the fact of the investigation and the charges against the legislator. The legislator shall be given an opportunity to file a written response with the Committee."

SECTION 3. G.S. 120-103.1(i)(3) reads as rewritten:

"(3) At any hearing held by the Committee:

a. Oral evidence shall be taken only on oath or affirmation.

b. The hearing shall be ~~held in closed session unless the public servant requests that the hearing be held in open session.~~open to the public, except for matters that could otherwise be considered in closed session under G.S. 143-318.11, matters involving minors, or matters involving a personnel record. In any event, the deliberations by the Commission on a complaint may be held in closed session.

c. The legislator being investigated shall have the right to present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits, and be represented by counsel."

SECTION 4. G.S. 120-103.1(l) reads as rewritten:

"(l) Confidentiality. – Except as provided under subsection (k) of this section, the complaint, response, records, and findings of the Committee connected to an inquiry under this section shall be confidential and not matters of public record, except as otherwise provided in this section or when the legislator under inquiry requests in writing that the complaint, response, ~~records,~~ and findings be made ~~public prior to the time the Committee recommends sanctions.~~public. Once a hearing under this section commences the complaint, response, Committee's report to the house, and all other documents offered at the hearing in conjunction with the complaint, not otherwise privileged or confidential under law, shall be public records. ~~At~~ If no hearing is held, at such time as the Committee recommends sanctions to the house of which the legislator is a member, the complaint, response, and Committee's report to the house shall be made public."

SECTION 5. G.S. 120-104(f) reads as rewritten:

"(f) The Committee shall submit its formal advisory opinions to the State Ethics Commission, and the State Ethics Commission shall publish the Committee's opinions under G.S. 138A-13(d). The Committee shall edit for publication purposes as necessary to protect the identities of the individuals requesting opinions prior to submission to the State Ethics Commission. The Committee may distribute the edited formal advisory opinion to members of the General Assembly prior to publication by the State Ethics Commission."

SECTION 6. G.S. 120-104 is amended by adding a new subsection to read:

"(h) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of an advisory opinion."

SECTION 7. G.S. 120C-100(a)(6) reads as rewritten:

"(6) Legislative employee. – Employees and officers of the General Assembly, consultants and counsel to committees of either house of the General Assembly or of legislative commissions, who are paid by State funds, but not including legislators, members of the Council of State, nonsupervisory employees of the Administrative Division's Facility Maintenance and Food Services staff, or pages."

SECTION 8.(a) G.S. 120C-100(a)(10)a. is repealed.

SECTION 8.(b) G.S. 120C-100(a)(10)d. reads as rewritten:

"d. Is employed by a person and a significant part of that employee's duties include lobbying. In no case shall an employee be considered a lobbyist if in no 30-day period less than five percent (5%) of that employee's actual duties ~~in any 30-day period~~ include engaging in lobbying as defined in subdivision (9)a. of this ~~section.~~section or if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (9)b. of this section.

The term "lobbyist" shall not include individuals who are specifically exempted from this Chapter by G.S. 120C-700 or registered as liaison personnel under Article 5 of this Chapter."

SECTION 9. G.S. 120C-101 reads as rewritten:

"§ **120C-101. Rules and forms.**

(a) The Commission shall adopt any rules or definitions necessary to interpret ~~and carry out~~ the provisions of this ~~Chapter.~~ Chapter and adopt any rules necessary to

administer the provisions of this Chapter, except for Articles 2, 4 and 8 of this Chapter. The Secretary of State shall adopt any rules, ~~orders, forms, and definitions~~ orders, and forms as are necessary to ~~carry out~~administer the provisions of Articles 2, 4 and 8 of this Chapter. The Secretary of State may appoint a council to advise the Secretary in adopting rules under this section.

(b) With respect to the forms adopted under subsection (a) of this section, the Secretary of State shall adopt rules to protect from disclosure all confidential information under Chapter 132 of the General Statutes related to economic development initiatives or to industrial or business recruitment activities. The information shall remain confidential until the State, a unit of local government, or the business has announced a commitment by the business to expand or locate a specific project in this State or a final decision not to do so, and the business has communicated that commitment or decision to the State or local government agency involved with the project.

(c) In adopting rules under this Chapter, the Commission is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the Commission shall maintain a mailing list of interested persons as provided in G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the Commission shall:

(1) Publish the proposed rules in the North Carolina Register.
(2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet to be posted within five business days.
(3) Notify persons on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
(4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
(5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted under this ~~section~~ subsection becomes effective the first day of the month following the month the final rule is submitted to the Codifier of Rules for entry into the North Carolina Administrative Code.

(d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the Commission to a rule adopted by the Secretary of State pursuant to this Chapter shall be deemed written objections from 10 or more persons. Notwithstanding G.S. 150B-21.3(b2), a rule adopted by the Secretary of State pursuant to this Chapter objected to by the Commission under this subsection shall not become effective until an act of the General Assembly approving the rule has become law. If the General Assembly does not approve a rule under this subsection by the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Rules Review Commission approves the rule, the permanent rule shall not become effective and any temporary rule associated with the permanent rule expires. If the General Assembly fails to approve a rule by the day of adjournment, the Secretary of State may initiate rulemaking for a new permanent rule, including by the adoption of a temporary rule."

SECTION 10. G.S. 120C-102 reads as rewritten:

"§ **120C-102. Advisory opinions.**

(a) At the request of any person affected by this Chapter, the Commission shall render advisory opinions on specific questions involving the meaning and application of this Chapter and that person's compliance therewith. The request shall be in writing and relate to real or reasonably anticipated fact settings or circumstances. The Commission shall issue advisory opinions having prospective application only. ~~Reliance~~ Good faith reliance upon a requested written advisory opinion on a specific matter shall immunize the designated individual, lobbyist, lobbyist's principal, or other person requesting that written advisory opinion from ~~both~~ all of the following:

(1) Investigation by the Commission.

(2) Any adverse action by the employing entity.

(3) Investigation by the Secretary of State.

(b) Staff to the Commission may issue advisory opinions under procedures adopted by the Commission.

(c) The Commission shall publish its advisory opinions at least once a year, edited as necessary to protect the identities of the individuals requesting opinions.

(d) Except as provided under subsection (c) of this section, requests for advisory opinions and advisory opinions issued pursuant to this section are confidential and not matters of public record. Staff to the Commission may share all information related to requests made under subsection (a) of this section with staff of the Office of the Secretary of State, and staff of the Office of the Secretary of State shall treat that information as confidential and not a public record. The Commission shall forward an unedited copy of each advisory opinion under this section to the Secretary of State at the time the advisory opinion is issued to the requestor, and the Secretary of State shall treat that unedited advisory opinion as confidential and not a public record.

(e) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of an advisory opinion."

SECTION 11. G.S. 120C-215 is amended by adding a new subsection to read:

"(d) For purposes of this section, "incur" means the point at which a binding obligation arises."

SECTION 12.(a) G.S. 120C-303(a) reads as rewritten:

"(a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist's principal may ~~directly or indirectly~~ do any of the following:

(1) Knowingly give a gift to a designated individual.

(2) Knowingly give a gift to a third party with the intent that a designated individual be the ultimate recipient."

SECTION 12.(b) G.S. 120C-303 is amended by adding new subsections to read:

"(d) Gifts made to a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that person's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c).

(e) Gifts made to a nonpartisan state, regional, national, or international organization of which a public servant's agency is a member or a public servant is a member or participant of by virtue of that person's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization,

shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c)."

SECTION 12.(c) This section becomes effective December 1, 2007, and applies to offenses committed on or after that date.

SECTION 13.(a) G.S. 120C-304(a)(2) reads as rewritten:

"(2) Before the later of the close of ~~the~~ session as set forth in G.S. 120C-100(a)(4)b.1 in which the legislator served or six months after leaving office."

SECTION 13.(b) This section becomes effective December 1, 2007, and applies to offenses committed on or after that date.

SECTION 14. G.S. 120C-400 reads as rewritten:

"§ **120C-400. Reporting of reportable expenditures.**

(a) For purposes of this Chapter, all reportable expenditures made for the purpose of lobbying shall be reported, including the following:

(1) Reportable expenditures benefiting or made on behalf of a designated individual, or those persons' immediate family members, in the regular course of that individual's employment.

(2) Contractual arrangements or direct business relationships between a lobbyist or lobbyist's principal and a designated individual, or that person's immediate family member, in effect during the reporting period or the previous 12 months.

(3) Reportable expenditures reimbursed to a lobbyist in the ordinary course of business by the lobbyist's principal or other employer.

(b) This section shall not apply to any reportable expenditure made directly to a State agency and that agency maintains an accounting of the reportable expenditure that is a public record."

SECTION 15.(a) G.S. 120C-401 is amended by adding two new subsections to read:

"(i) Any reportable expenditure promptly paid for at fair market value or promptly returned to a lobbyist or lobbyist's principal by a designated individual or a member of the designated individual's immediate family within the reporting period shall not be reported under G.S. 120C-402 or G.S. 120C-403, and if reported, the repayment or return of the expenditure at any time shall be reported by the lobbyist and lobbyist's principal on the next report due under this Article.

(j) The Secretary of State shall make available a report form that may be filed by a designated individual or a member of the designated individual's immediate family who promptly declines, returns, pays fair market value for, or donates a reportable expenditure in accordance with G.S. 138A-32(g). The Secretary of State shall index the filing of this form together with the lobbyist or lobbyist's principal who gave the reportable expenditure."

SECTION 15.(b) G.S. 138A-32(g) reads as rewritten:

"(g) A prohibited gift shall ~~be~~ be, and a permissible gift may be, promptly declined, returned, paid for at fair market value, or donated ~~immediately~~ to charity or the State."

SECTION 16. G.S. 120C-700 reads as rewritten:

"§ **120C-700. Persons exempted from this Chapter.**

Except as otherwise provided in Article 8, the provisions of this Chapter shall not be construed to apply to any of the following:

(1) An individual solely engaged in expressing a personal opinion or stating facts or recommendations on legislative action or executive action to a designated individual and not acting as a lobbyist.

(2) A person appearing before a committee, commission, board, council, or other collective body whose membership includes one or more designated individuals at the invitation or request of the committee or a member thereof and who ~~engages in no~~ does not act in any further activities as a lobbyist with respect to the legislative or executive action for which that person appeared.

(3) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district, or other governmental agency, when ~~appearing~~ acting solely in connection with matters pertaining to the office and public duties, except for a person designated as liaison personnel under G.S. 120C-500. For purposes of this subdivision, an individual appointed as a county or city attorney under Part 7 of Article 5 of Chapter 153A of the General Statutes or Part 6 of Article 7 of Chapter 160A of the General Statutes, respectively, shall be considered an employee of the county or city.

(4) A person performing professional services in drafting bills, or in advising and rendering opinions to clients, or to designated individuals on behalf of clients, as to the construction and effect of proposed or pending legislative or executive action where the professional services are not otherwise connected with the legislative or executive action.

(5) A person who owns, publishes, or is an employee of any recognized news medium, while engaged in the acquisition and publication of news or news and commentary on behalf of that recognized news medium.

(6) Designated individuals while acting in their official capacity.

(7) A person responding to inquiries from a designated individual and who ~~engages in no~~ does not act in any further activities as a lobbyist in connection with that inquiry.

(8) A person who is a political committee as defined in G.S. 163-278.6(14), that person's employee, or that person's contracted service provider."

SECTION 17. G.S. 120C-800(c) reads as rewritten:

"(c) If a designated individual accepts a scholarship related to that person's public service or position valued over two hundred dollars ($200.00) from a person, or group of persons, acting together, exempted or not covered by this Chapter, the person, or group of persons, granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person, or group of persons, granting the scholarship, the name of the designated individual accepting the scholarship, and the estimated fair market value."

SECTION 18. G.S. 133-32(d) reads as rewritten:

"(d) This section is not intended to prevent a gift a public servant would be permitted to accept under G.S. 138A-32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such

professional organizations, nor is it intended to prevent governmental employees who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting. This section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the donee to the agency head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift."

SECTION 19. G.S. 138A-3(1) reads as rewritten:

"(1) Blind trust. – A trust established by or for the benefit of a covered person or a member of the covered person's immediate family for the purpose of divestiture of all control and knowledge of assets. A trust qualifies as a blind trust under this subdivision if the covered person or a member of the covered person's immediate family has no knowledge of the holdings and sources of income of the trust, the trustee of the trust is independent of and not associated with or employed by the covered person or a member of the covered person's immediate family and is not a member of the covered person's extended family, and the trustee has sole discretion as to the management of the trust assets.

~~(1)~~(1c) Board. – Any State board, commission, council, committee, task force, authority, or similar public body, however denominated, created by statute or executive order, as determined and designated by the Commission, except for those public bodies that have only advisory authority."

SECTION 20. G.S. 138A-3(3) reads as rewritten:

"(3) Business with which associated. – A business in which the person or any member of the person's immediate family does any of the following:

a. Is an employee.

b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.

c. Owns a legal, equitable, or beneficial interest of ten thousand dollars ($10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.

d. Is a lobbyist registered under Chapter 120C of the General Statutes.

For purposes of this subdivision, the term 'business' shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

a. The person or a member of the person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.

b. The fund is publicly traded, or the fund's assets are widely diversified."

SECTION 21. G.S. 138A-3(15) reads as rewritten:

"(15) Gift. – Anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, liaison personnel, or a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall not be considered gifts under this subdivision:

a. Anything for which fair market value, or face value if shown, is paid by the covered person or legislative employee.

b. Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business if not made for the purpose of lobbying.

c. Contractual arrangements or commercial relationships or arrangements made in the normal course of business if not made for the purpose of lobbying.

d. Academic or athletic scholarships based on the same criteria as applied to the public.

e. Campaign contributions properly received and reported as required under Article 22A of Chapter 163 of the General Statutes.

f. Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:

1. A sympathy card, letter, or note.
2. Flowers.
3. Food or beverages for immediate consumption.
4. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars ($200.00) per death per donor."

SECTION 22. G.S. 138A-3 is amended by adding a new subdivision to read:

"(26c) Permanent designee. – An individual designated by a public servant to serve and vote in the absence of the public servant on a regular basis on a board on which the public servant serves."

SECTION 23. G.S. 138A-3(27) reads as rewritten:

"(27) Person. – Any individual, firm, partnership, committee, association, corporation, business, or any other organization or group of persons acting together. The term "person" does not include the State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State."

SECTION 24. G.S. 138A-3(29) reads as rewritten:

"(29) Public event. – Any of the following:

a. ~~For legislators and legislative employees:~~

~~1.~~ An organized gathering of persons open to the general public to which all legislators or legislative employees are invited to attend.

b.~~2.~~ An organized gathering of a person to which a legislator or legislative employee is invited along with the entire membership of the House of Representatives, Senate, a committee, a standing subcommittee, a county legislative delegation, a municipal legislative delegation, a joint committee, a joint commission, or a recognized legislative caucus with regular meetings other than meetings with one or more lobbyists, and one of the following apply:

1.~~I.~~ At least 10 individuals associated with the person actually attend, other than the legislator or legislative employee, or the immediate family of the legislator or legislative employee.

2.~~II.~~ All shareholders, employees, board members, officers, members, or subscribers of the person located in North Carolina are notified and invited to attend.

3.~~III.~~ The person is a governmental body and the gathering is subject to the open meetings law.

~~b.~~c. ~~For public servants:~~

~~1.~~ An organized gathering of individuals open to the general public to which at least 10 public servants are invited to attend.

d.~~2.~~ An organized gathering of a governmental body, the gathering of which is subject to the open meetings law, and to which the entire board of which the public servant is a member or at least 10 public servants are invited to attend.

e.~~3.~~ An organized gathering of a person to which the entire board of which the public servant is a member or at least 10 public servants are invited to attend and to which at least 10 individuals, other than the public servant, or the public servant's immediate family, actually attend, or to which all shareholders, employees, board members, officers, members, or subscribers of the person who are located in a specific North Carolina office or county are notified and invited to attend."

SECTION 25. G.S. 138A-3(30)i. reads as rewritten:

"i. All voting members of boards, including ex officio ~~members~~ members, permanent designees of any voting member, and members serving by executive, legislative, or judicial branch appointment."

SECTION 26. G.S. 138A-3(31) reads as rewritten:

"(31) Vested trust. – A trust, annuity, or other funds held by a trustee or other third party for the benefit of the covered person or a member of the covered person's immediate ~~family.~~family, except a blind trust. A vested trust shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if:

a. The covered person or a member of the covered person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund; and

b. The fund is publicly traded, or the fund's assets are widely diversified."

SECTION 27. G.S. 138A-12(f) reads as rewritten:

"(f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission determines at the end of its preliminary inquiry that (i) the individual who is the subject of the complaint is not a covered person or legislative employee subject to the Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does not allege facts sufficient to constitute a violation ~~of this Chapter,~~within the jurisdiction of the Commission under subsection (b) if this section, the Commission shall dismiss the complaint."

SECTION 28. G.S. 138A-12(i)(4) reads as rewritten:

"(4) At any hearing held by the Commission:

a. Oral evidence shall be taken only on oath or affirmation.

b. The hearing shall be ~~held in closed session unless the public servant requests that the hearing be held in open session.~~open to the public, except for matters involving minors, personnel records, or matters that could otherwise be considered in closed session under G.S. 143-318.11. In any event, the deliberations by the Commission on a complaint may be held in closed session.

c. The public servant being investigated shall have the right to present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits, and be represented by counsel."

SECTION 28.5. G.S. 138A-12(k)(3)e. reads as rewritten:

"(3) If the Commission finds that the alleged violation of this Chapter is established by clear and convincing evidence, the Commission shall do one or more of the following:

…

e. Refer the matter for appropriate action to the principal clerk of the house of the General Assembly that elected the public servant for members of the Board of ~~Governors.~~ Governors and the State Board of Community Colleges."

SECTION 29. G.S. 138A-12(n) reads as rewritten:

"(n) Confidentiality. – Complaints and responses filed with the Commission and reports and other investigative documents and records of the Commission connected to an inquiry under this section shall be confidential and not matters of public record, except as otherwise provided in this section or when the covered person or legislative employee under inquiry requests in writing that the ~~records and~~ complaint, response, and findings be made ~~public prior to the time the employing entity imposes public sanctions. public. At such time as public sanctions are imposed on a covered person~~Once a hearing under this section commences, the complaint, response, and ~~Commission's report to the employing entity shall be made public.~~all other documents offered at the hearing in conjunction with the complaint, not otherwise privileged or confidential under law, shall be public records. If no hearing is held at such time as the Commission reports to the employing entity a recommendation of sanctions, the complaint and response shall be made public."

SECTION 30. G.S. 138A-12(o) reads as rewritten:

"(o) Recommendations of Sanctions. – After referring a matter under subsection (k) of this section, if requested by the entity to which the matter was referred, the

Commission may recommend sanctions or issue rulings as it deems necessary or appropriate to protect the public interest and ensure compliance with this Chapter. In recommending appropriate sanctions, the Commission may consider the following factors:

(1) The public servant's prior experience in an agency or on a board and prior opportunities to learn the ethical standards for a public servant as set forth in Article 4 of this Chapter, including those dealing with conflicts of interest.
(2) The number of ethics violations.
(3) The severity of the ethics violations.
(4) Whether the ethics violations involve the public servant's financial ~~interests or arise from an appearance of conflict of~~ interest.
(5) Whether the ethics violations were inadvertent or intentional.
(6) Whether the public servant knew or should have known that the improper conduct was a violation of this Chapter.
(7) Whether the public servant has previously been advised or warned by the Commission.
(8) Whether the conduct or situation giving rise to the ethics violation was pointed out to the public servant in the Commission's Statement of Economic Interest evaluation letter issued under G.S. 138A-24(e).
(9) The public servant's motivation or reason for the improper conduct or action, including whether the action was for personal financial gain versus protection of the public interest.

In making recommendations under this subsection, if the Commission determines, after proper review and investigation, that sanctions are appropriate, the Commission may recommend any action it deems necessary to properly address and rectify any violation of this Chapter by a public servant, including removal of the public servant from the public servant's State position. Nothing in this subsection is intended, and shall not be construed, to give the Commission any independent civil, criminal, or administrative investigative or enforcement authority over covered persons, or other State employees or appointees."

SECTION 31. G.S. 138A-13 reads as rewritten:

"§ **138A-13. Advisory opinions.**

(a) At the request of any public servant or legislative employee, any individual who is responsible for the supervision or appointment of a person who is a public servant or legislative employee, legal counsel for any public servant, any ethics liaison under G.S. 138A-14, or any member of the Commission, the Commission shall render advisory opinions on specific questions involving the meaning and application of this Chapter and the public servant's or legislative employee's compliance therewith. The request shall be in writing, electronic or otherwise, and relate prospectively to real or reasonably anticipated fact settings or circumstances. On its own motion, the Commission may render advisory opinions on specific questions involving the meaning and application of this Chapter. The Commission shall issue advisory opinions having prospective application only. Reliance upon a requested written advisory opinion on a specific matter shall immunize the public servant or legislative employee, on that matter, from ~~both~~ all of the following:

(1) Investigation by the ~~Commission.~~Commission, except for an inquiry under G.S. 138A-12(b)(3).
(2) Any adverse action by the employing entity.

(3) Investigation by the Secretary of State.

(b) At the request of a legislator, the Commission shall render recommended advisory opinions on specific questions involving the meaning and application of this Chapter and Part 1 of Article 14 of Chapter 120 of the General Statutes, and the legislator's compliance therewith. The request shall be in writing, electronic or otherwise, and relate prospectively to real or reasonably anticipated fact settings or circumstances. The Commission shall issue advisory opinions having prospective application only. Until action is taken by the Committee under G.S. 120-104, reliance upon a requested written advisory opinion on a specific matter shall immunize the legislator, on that matter, from ~~both~~ all of the following:

(1) Investigation by the Committee or ~~Commission.~~Commission, except for an inquiry under G.S. 138A-12(b)(3).

(2) Any adverse action by the house of which the legislator is a member.

(3) Investigation by the Secretary of State.

Any advisory opinion issued to a legislator under this subsection shall immediately be delivered to the chairs of the ~~Committee.~~Committee, together with a copy of the request. Except for the Lieutenant Governor, the immunity granted under this subsection shall not apply after the time the Committee modifies or overturns the advisory opinion of the Commission in accordance with G.S. 120-104.

(c) Staff to the Commission may issue advisory opinions under procedures adopted by the Commission.

(d) The Commission shall publish its advisory opinions at least once a year. These advisory opinions shall be edited for publication purposes as necessary to protect the identities of the individuals requesting opinions. When the Commission issues a recommended opinion to a legislator under subsection (b) of this section, the Commission shall publish only the formal advisory opinion of the Committee upon its submission to the Commission.

(e) Except as provided under subsection (d) of this section, requests for advisory opinions, and advisory opinions issued under this section, are confidential and not public records. Staff to the Commission may share all information related to requests made under subsection (b) of this section with staff to the Committee, and staff to the Committee shall treat that information as confidential and not a public record.

(f) This section shall not apply to judicial officers.

(g) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of an advisory opinion."

SECTION 32. G.S. 138A-22(a) reads as rewritten:

"(a) Every covered person subject to this Chapter who is elected, appointed, or employed, including one appointed to fill a vacancy in elective office, except for public servants included under G.S. 138A-3(30)b., e., f., or g. whose annual compensation from the State is less than sixty thousand dollars ($60,000), shall file a statement of economic interest with the Commission prior to the covered person's initial appointment, election, or employment and no later than ~~March 15th~~ April 15 of every year thereafter, except as otherwise filed under ~~subsections~~subsections (c1) and (d) of this section. A prospective covered person required to file a statement under this Chapter shall not be appointed, employed, or receive a certificate of election, prior to submission by the Commission of the Commission's evaluation of the statement in accordance with this Article. The requirement for an annual filing under this subsection also shall apply to covered persons whose terms have expired but who continue to serve until the person's replacement is appointed. Once a statement of economic interest is

properly completed and filed under this Article, the statement of economic interest does not need to be supplemented or refiled prior to the next due date set forth in this subsection."

SECTION 33. G.S. 138A-22 is amended by adding a new subsection to read:

"(c1) A public servant reappointed to a board between January 1 and April 15 shall file a current statement of economic interest prior to the reappointment."

SECTION 34. G.S. 138A-24 reads as rewritten:

"§ **138A-24. Contents of statement.**

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Commission and sworn to by the filing person. Answers must be provided to all questions. The form shall include the following information about the filing person and the filing person's immediate family:

(1) Except as otherwise provided in this subdivision, the name, ~~home address,~~ current mailing address, occupation, employer, and business of the person. Any person holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a ~~business~~ current mailing address instead of the home address on the form required in this subsection. The judicial officer may also use the initials instead of the name of any unemancipated child of the judicial officer who also resides in the household of the judicial officer. If the judicial officer ~~provides a business address or~~ provides the initials of an unemancipated child, the judicial officer shall concurrently provide ~~a home address and~~ the name of the unemancipated child to the Commission. The ~~home address and the~~ name of an unemancipated child provided by the judicial officer to the Commission shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential.

(2) A list of each asset and liability included in this subdivision of whatever nature (including legal, equitable, or beneficial interest) with a value of at least ten thousand dollars ($10,000) owned by the filing person and the filing person's immediate ~~family.~~ family, except assets or liabilities held in a blind trust. This list shall include the following:

a. All real estate located in the State owned wholly or in part by the filing person or the filing person's immediate family, including descriptions adequate to determine the location by city and county of each parcel.

b. Real estate that is currently leased or rented to or from the State.

c. Personal property sold to or bought from the State within the preceding two years.

d. Personal property currently leased or rented to or from the State.

e. The name of each publicly owned company. For purposes of this sub-subdivision, the term 'publicly owned company' shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

1. The filing person or a member of the filing person's immediate family neither exercises nor has the ability to

exercise control over the financial interests held by the fund.

2. The fund is publicly traded, or the fund's assets are widely diversified.

f. The name of each nonpublicly owned company or business entity, including interests in partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations.

g. For each company or business entity listed under sub-subdivision f. of this subdivision, if known, a list of any other companies or business entities in which the company or business entity owns securities or equity interests exceeding a value of ten thousand dollars ($10,000).

h. A list of all nonpublicly owned businesses of which the person is an officer, employee, director, partner, owner, or member or manager of a limited liability company.

i. For any company or business entity listed under sub-subdivisions f., g., and h. of this subdivision, if known, any company or business entity that has any material business dealings, contracts, or other involvement with the State, or is regulated by the State, including a brief description of the business activity.

j. For a vested trust created, established, or controlled by the filing person of which the filing person or the members of the filing person's immediate family are the beneficiaries, excluding a blind trust, the name and address of the trustee, a description of the trust, and the filing person's relationship to the trust.

k. A list of all liabilities, excluding indebtedness on the filing person's primary personal residence, by type of creditor and debtor.

~~l. A list of any public or private enterprise, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the person or any member of the person's immediate family is a director, officer, governing board member, employee, or independent contractor as of December 31 of the preceding year, including a list of which of those nonprofit corporations or organizations do business with the State or receive State funds, if known, and a brief description of the nature of the business, or which with due diligence could reasonably be known.~~

m. A list of all stock options in a company or business not otherwise disclosed on this statement.

(3) ~~A list~~ The name of each source (not specific amounts) of income of more than five thousand dollars ($5,000) received during the previous year by business or industry type, ~~including salary or wages, professional fees, honoraria, interest, dividends, capital gains, and business income.~~ if that source is not listed under subdivision (2) of this subsection. Income shall include salary, wages, professional fees,

honoraria, interest, dividends, rental income, and business income from any source other than capital gains, federal government retirement, military retirement, or social security income.

(4) If the filing person is a practicing attorney, an indication of whether the filing person, or the law firm with which the filing person is affiliated, earned legal fees during the past year in excess of ten thousand dollars ($10,000) from any of the following categories of legal representation:
   a. Administrative law.
   b. Admiralty law.
   c. Corporate law.
   d. Criminal law.
   e. Decedents' estates law.
   f. Environmental law.
   g. Insurance law.
   h. Labor law.
   i. Local government law.
   j. Negligence or other tort litigation law.
   k. Real property law.
   l. Securities law.
   m. Taxation law.
   n. Utilities regulation law.

(5) Except for a filing person in compliance under subdivision (4) of this subsection, if the filing person is a licensed professional or provides consulting services, either individually or as a member of a professional association, a list of categories of business and the nature of services rendered, for which payment for services were charged or paid during the past year in excess of ten thousand dollars ($10,000).

(6) An indication of whether the filing person, the filing person's employer, a member of the filing person's immediate family, or the immediate family member's employer is licensed or regulated by, or has a business relationship with, the board or employing entity with which the filing person is or will be associated. This subdivision does not apply to a legislator or a judicial officer.

(7) A list of ~~the public servant's or the public servant's immediate family's memberships or other affiliations with, including offices held in,~~ societies, organizations, or advocacy groups, pertaining to subject matter areas over which the public servant's agency or board may have ~~jurisdiction.~~ jurisdiction, in which the public servant or a member of the public servant's immediate family is a director, officer, or governing board member. This subdivision does not apply to a legislator, a judicial officer, or that person's immediate family.

(8) A list of all things ~~of monetary~~ with a total value ~~greater than~~ of over two hundred dollars ($200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for the purpose of lobbying, if such things ~~where~~were given by a person not required to report under Chapter 120C of the General Statutes, ~~or from~~ excluding things given by a member of the person's extended family.

The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required by this subdivision shall not apply to things of monetary value received by the filing person prior to the time the person filed or was nominated as a candidate for office, as described in G.S. 138A-22, or was appointed or employed as a covered person.

(9) A list of any felony convictions of the filing ~~person.~~person, excluding any felony convictions for which a pardon of innocence or order of expungement has been granted.

(10) Any other economic or financial information that is necessary either to carry out the purposes of this Chapter or to fully disclose any conflict of interest or potential conflict of interest. If the filing person believes a potential for conflict exists, the filing person has a duty to inquire of the Commission as to that potential conflict. If a filing person is uncertain of whether particular information is necessary, then the filing person shall consult the Commission for guidance.

(11) A list of any nonprofit corporation or organization with which associated during the preceding calendar year, including a list of which of those nonprofit corporations or organizations with which associated do business with the State or receive State funds and a brief description of the nature of the business, if known or with which due diligence could reasonably be known.

(12) A statement of whether the filing person or the filing person's immediate family is or has been a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes within the preceding 12 months.

(b) The Supreme Court, the Committee, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, other boards, and the appointing authority or employing entity may require a filing person to file supplemental information in conjunction with the filing of that person's statement of economic interest. These supplemental filings requirements shall be filed with the Commission and included on the forms to be filed with the Commission. The Commission shall evaluate the supplemental forms as part of the statement of economic interest. The failure to file supplemental forms shall be subject to the provisions of G.S. 138A-25.

(c) Each statement of economic interest shall contain sworn certification by the filing person that the filing person has read the statement and that, to the best of the filing person's knowledge and belief, the statement is true, correct, and complete. The filing person's sworn certification also shall provide that the filing person has not transferred, and will not transfer, any asset, interest, or other property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

(d) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the date the statement of economic interest was due.

(e) The Commission shall prepare a written evaluation of each statement of economic interest relative to conflicts of interest and potential conflicts of interest. The Commission shall submit the evaluation to all of the following:

(1) The filing person who submitted the statement.

(2) The head of the agency in which the filing person serves.
(3) The Governor for gubernatorial appointees and employees in agencies under the Governor's authority.
(4) The Chief Justice for judicial officers and judicial employees.
(5) The appointing or hiring authority for those public servants not under the Governor's authority.
(6) The State Board of Elections for those filing persons who are elected.
(7) The Committee, together with a copy of the statement of economic interest, for legislators."

SECTION 35. G.S. 138A-32(c) reads as rewritten:

"(c) No public servant, legislator, or legislative employee shall knowingly accept a ~~gift, directly or indirectly,~~ gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes.~~as defined in G.S. 120C-100.~~ No public servant, legislator, or legislative employee shall accept a gift from a third party knowing all of the following:

(1) The third party obtained the gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes.
(2) The lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes intended for the ultimate recipient of the gift to be a public servant, legislator, or legislative employee as provided in G.S. 120C-303."

SECTION 36. G.S. 138A-32(d) reads as rewritten:

"(d) No public servant shall knowingly accept a ~~gift, directly or indirectly,~~gift from a person whom the public servant knows or has reason to know any of the following:

(1) Is doing or is seeking to do business of any kind with the public servant's employing entity.
(2) Is engaged in activities that are regulated or controlled by the public servant's employing entity.
(3) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the public servant's official duties."

SECTION 37. G.S. 138A-32 is amended by adding a new subsection to read:

"(d1) No public servant shall accept a gift from a third party knowing all of the following:

(1) The third party obtained the gift from a person described under subdivisions (d)(1), (2), and (3) of this section.
(2) The person described under subdivisions (d)(1), (2), and (3) of this section intended for the gift to benefit the public servant."

SECTION 37.5. G.S. 138A-32(e) reads as rewritten:

"(e) Subsections ~~(c) and (d)~~(c), (d), and (d1) of this section shall not apply to any of the following:

...."

SECTION 38. G.S. 138A-32(e)(3) reads as rewritten:

"(3) Reasonable actual expenditures of the ~~covered person~~ legislator, public servant, or legislative employee for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, in connection with (i) a ~~covered person's~~legislator's,

public servant's, or legislative employee's attendance at an educational meeting for purposes primarily related to the public duties and responsibilities of the ~~covered person~~legislator, public servant, or legislative ~~employee,~~employee; (ii) a legislator's, public servant's, or legislative employee's ~~or in order for the covered person or legislative employee to participate~~ participation as a speaker or member of a ~~panel;~~panel at a meeting; ~~(ii)~~(iii) a legislator's or legislative employee's attendance and participation in meetings of a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or that the legislator or legislative employee is a member or participant of by virtue of that person's public position, or as a member of a board, agency, or committee of such organization; or ~~(iii)~~(iv) a public servant's attendance and participation in meetings as a member of a board, agency, or committee of a nonpartisan state, regional, national, or international ~~legislative~~ organization of which the public servant's agency is a member or the public servant is a member by virtue of that person's public position, provided the following conditions are met:

a. The reasonable actual expenditures shall be made by a lobbyist's principal, and not a lobbyist.
b. Any ~~educational~~ meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting has been given at least 10 days in advance.
c. Any food, beverages, transportation, or entertainment must be provided to all attendees or defined groups of 10 or more ~~attendees.~~attendees as part of the meeting or in conjunction with the meeting.
d. Any entertainment must be incidental to the principal agenda of the ~~educational~~ meeting.
e. If the legislator, public servant, or legislative employee is participating as a speaker or member of a panel, then that legislator, public servant, or legislative employee must be a bona fide speaker or participant."

SECTION 39. G.S. 138A-32(e)(6) reads as rewritten:

"(6) Anything generally made available or distributed to the general public or all other State employees by lobbyists or lobbyist's ~~principals.~~ principals, or persons described in subdivisions (d)(1), (2), or (3) of this section."

SECTION 40. G.S. 138A-32(e)(10) reads as rewritten:

"(10) Gifts given or received as part of a business, civic, religious, fraternal, personal, or commercial relationship provided all of the following conditions are met:

a. The relationship is not related to the person's public service or ~~position and~~position.
b. The gift is made under circumstances that a reasonable person would conclude that the gift was not given for the purpose of lobbying."

SECTION 41.(a) G.S. 138A-32(e) is amended by adding a new subdivision to read:

"(11) Food and beverages for immediate consumption and related transportation provided all of the following conditions are met:

a. The food, beverage, or transportation is given by a lobbyist principal and not a lobbyist.

b. The food, beverage, or transportation is provided during a conference, meeting, or similar event and is available to all attendees of the same class as the recipient.

c. The recipient of the food, beverage, or transportation is a director, officer, governing board member, employee, or independent contractor of one of the following:

1. The lobbyist principal giving the food, beverage, or transportation.

2. A third party that received the funds to purchase the food, beverages, or transportation.

(12) Food and beverages for immediate consumption at an organized gathering of a person to which a public servant is invited to attend for purposes primarily related to the public servant's public service or position, and to which at least 10 individuals, other than the public servant, or the public servant's immediate family, actually attend, or to which all shareholders, employees, board members, officers, members, or subscribers of the person who are located in a specific North Carolina office or county are notified and invited to attend."

SECTION 41.(b) G.S. 120C-402(b)(4) reads as rewritten:

"(4) All reportable expenditures for gifts given under ~~G.S. 138A-32(e)(1)-(9)~~ G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under ~~G.S. 138A-32(e)(10).~~G.S. 138A-32(e)(10) with a value of more than ten dollars ($10.00)."

SECTION 41.(c) G.S. 120C-403(b)(5) reads as rewritten:

"(5) All reportable expenditures for gifts given under ~~G.S. 138A-32(e)(1)-(9)~~G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than two hundred dollars ($200.00)."

SECTION 42. G.S. 138A-36 is amended by adding a new subsection to read:

"(e) This section shall not allow participation in an official action prohibited by G.S. 14-234."

SECTION 43. G.S. 160A-480.3 is amended by adding a new subsection to read:

"(h) Any authority created under this Part shall be treated as a board for purposes of Chapter 138A of the General Statutes."

SECTION 44. Sections 17, 23, 39, 40 and 41 of this act are effective January 1, 2007. Section 9 of this act is effective July 1, 2007. Sections 8, 11, 15, 20, 22, 25, 34 and 42 of this act become effective October 1, 2007. Section 18 of this act becomes effective December 1, 2007. Section 34 of this act becomes effective January 1, 2008. The remainder of this act is effective when this act becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:59 a.m. on the 9th day of August, 2007.

Session Law 2007-349 **House Bill 1737**

AN ACT TO REGULATE LEGAL EXPENSE FUNDS OF ELECTED OFFICERS TO PROVIDE FOR DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES AND TO LIMIT CERTAIN CONTRIBUTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VIII of Chapter 163 of the General Statutes is amended to add a new Article to read:

"Article 22M.

"Legal Expense Funds.

"**§ 163-278.300. Definitions.**

As used in this Article, the following terms mean:

(1) Board. – The State Board of Elections.

(2) Contribution. – As defined in G.S. 163-278.6. The term "contribution" does not include either of the following:

a. The provision of legal services to an elected officer by the State or any of its political subdivisions when those services are authorized or required by law or

b. The provision of free or pro bono legal advice or legal services, provided that any costs incurred or expenses advanced for which clients are liable under other provisions of law shall be deemed contributions.

(3) Elected officer. – Any individual serving in or seeking a public office. An individual is seeking a public office when that individual has filed any notice, petition, or other document required by law or local act as a condition of election to public office. An individual continues to be an elected officer for purposes of this Article as long as a legal action commenced while the individual was an elected officer continues. If a legal action is commenced after an individual ceases to serve in or seek public office but the legal action concerns subject matter in the individual's official capacity as an elected officer, for purposes of this Article, that individual is an elected officer as long as that legal action continues.

(4) Expenditure. – As defined in G.S. 163-278.6.

(5) Legal action. – A formal dispute in a judicial, legislative, or administrative forum, including but not limited to, a civil or criminal action filed in a court, a complaint or protest filed with a board of elections, an election contest filed under Article 3 of Chapter 120 of the General Statutes or G.S. 163-182.13A, or a complaint filed with the State Ethics Commission or Legislative Ethics Committee. The term "legal action" also includes investigations made or conducted before the commencement of any formal proceedings. The term "legal action" does not include the election itself or the campaign for election.

(6) Legal expense fund. – Any collection of money for the purpose of funding a legal action, or a potential legal action, taken by or against an elected officer in that elected officer's official capacity.

(7) Official capacity. – Related to or resulting from the campaign for public office or related to or resulting from holding public office. "Official capacity" is not limited to "scope and course of employment" as used in G.S. 143-300.3.

(8) Public office. – As defined in G.S. 163-278.6.

(9) Treasurer. – An individual appointed by an elected officer or other individual or group of individuals collecting money for a legal expense fund.

"**§ 163-278.301. Creation of legal expense funds.**

(a) An elected officer, or another individual or group of individuals on the elected officer's behalf, shall create a legal expense fund if given a contribution, other than from that elected officer's self, spouse, parents, brothers, or sisters, for any of the following purposes:

(1) To fund an existing legal action taken by or against the elected officer in that elected officer's official capacity.

(2) To fund a potential legal action taken by or against an elected officer in that elected officer's official capacity.

(b) This section shall not apply to any contribution to the State or any of its political subdivisions.

(c) The legal expense fund shall comply with all provisions of this Article.

(d) If an elected officer funds legal actions entirely from that elected officer's own contributions or the contributions of the elected officer's spouse, parents, brothers, or sisters, that elected officer is not required to create a legal expense fund. If a legal expense fund accepts contributions as described in subsection (a) of this section, that legal expense fund shall report the elected officer's own contributions and those of those family members along with the other contributions in accordance with G.S. 163-278.310.

(d1) No more than one legal expense fund shall be created by or for an elected officer for the same legal action. Legal actions arising out of the same set of transactions and occurrences are deemed the same legal action for purposes of this subsection. A legal expense fund created for one legal action or potential legal action may be kept open by or on behalf of the elected officer for subsequent legal actions or potential legal actions.

(e) Contractual arrangements, including liability insurance, or commercial relationships or arrangements made in the normal course of business if not made for the purpose of lobbying, are not "contributions" for purposes of this Article. Use of such contractual arrangements to fund legal actions does not by itself require the elected officer to create a legal expense fund. If a legal expense fund has been created pursuant to subsection (a) of this section, such contractual arrangements shall be reported as expenditures.

(f) A violation of this Article shall be punishable as a Class 1 misdemeanor.

"**§§ 163-278.302 through 163-278.305: Reserved for future codification purposes.**

"**§ 163-278.306. Treasurer.**

(a) Each legal expense fund shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board.

(b) A legal expense fund may remove its treasurer. In case of the death, resignation, or removal of its treasurer, the legal expense fund shall appoint a successor within 10 calendar days of the vacancy and certify the name and address of the successor in the same manner provided in the case of an original appointment.

(c) Every treasurer of a legal expense fund shall receive training from the Board as to the duties of the office within three months of appointment and at least once every four years thereafter.

"**§ 163-278.307. Detailed accounts to be kept by treasurer.**

(a) The treasurer of each legal expense fund shall keep detailed accounts, current within seven calendar days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the legal expense fund.

(b) Accounts kept by the treasurer of a legal expense fund or the accounts of a treasurer or legal expense fund at any bank or other depository may be inspected by a member, designee, agent, attorney, or employee of the Board who is making an investigation pursuant to G.S. 163-278.22.

(c) For purposes of this section, "detailed accounts" shall mean at least all information required to be included in the quarterly report required under this Article.

(d) When a treasurer shows that best efforts have been used to obtain, maintain, and submit the information required by this Article, any report of the legal expense shall be considered in compliance with this Article and shall not be the basis for criminal prosecution or the imposition of civil penalties. The State Board of Elections shall adopt rules to implement this subsection.

"**§ 163-278.308. Reports filed with Board.**

(a) The treasurer of each legal expense fund shall file with the Board the following reports:

(1) Organizational report. – The report required under G.S. 163-278.309.

(2) Quarterly report. – The report required under G.S. 163-278.310.

(b) Any report or attachment required by this Article must be filed under certification of the treasurer as true and correct to the best of the knowledge of that officer.

(c) The organizational report shall be filed within 10 calendar days of the creation of the legal expense fund. All quarterly reports shall be filed with the Board no later than 10 business days after the end of each calendar quarter.

(d) Treasurers shall electronically file each report required by this section that shows a cumulative total for the quarter in excess of five thousand dollars ($5,000) in contributions or expenditures, according to rules adopted by the Board. The Board shall provide the software necessary to the treasurer to file the required electronic report at no cost to the legal expense fund.

(e) Any statement required to be filed under this Article shall be signed and certified as true and correct by the treasurer and shall be certified as true and correct to the best of the treasurer's knowledge. The elected officer creating the legal expense fund, or the other individual or group of individuals creating the legal expense fund on the elected officer's behalf, shall certify as true and correct to the best of their knowledge the organizational report and appointment of the treasurer. A certification under this Article shall be treated as under oath, and any individual making a certification under this Article knowing the information to be untrue is guilty of a Class I felony.

"**§ 163-278.309. Organizational report.**

(a) Each appointed treasurer shall file with the Board a statement of organization that includes all of the following:

(1) The name, address, and purpose of the legal expense fund.

(2) The names, addresses, and relationships of affiliated or connected elected officers, candidates, political committees, referendum committees, political parties, or similar organizations.

(3) The name, address, and position with the legal expense fund of the custodian of books and accounts.

(4) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used. The Board shall keep any account number required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of competent jurisdiction, or except as confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

(5) The name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act in the name of the treasurer, who shall be fully responsible for any act or acts committed by an assistant treasurer, and the treasurer shall be fully liable for any violation of this Article committed by any assistant treasurer.

(6) Any other information which might be requested by the Board that deals with the legal expense fund organization.

(b) Any change in information previously submitted in a statement of organization shall be reported to the Board within 10 calendar days following the change.

"**§ 163-278.310. Quarterly report.**

The treasurer of each legal expense fund shall be required to file a quarterly report with the Board containing all of the following:

(1) Contributions. – The name and complete mailing address of each contributor, the amount of the contribution, the principal occupation of the contributor, and the date the contribution was received. The total sum of all contributions to date shall also be plainly exhibited. The treasurer is not required to report the name of any contributor making a total contribution of fifty dollars ($50.00) or less in a calendar quarter, but shall instead report the fact that the treasurer has received a total contribution of fifty dollars ($50.00) or less, the amount of the contribution, and the date of receipt.

(2) Expenditures. – A list of all expenditures made by or on behalf of the legal expense fund. The report shall list the name and complete mailing address of each payee, the amount paid, the purpose, and the date such payment was made. The total sum of all expenditures to date shall also be plainly exhibited. The payee shall be the entity to whom the legal expense fund is obligated to make the expenditure. If the

expenditure is to a financial institution for revolving credit or a reimbursement for a payment to a financial institution for revolving credit, the statement shall also include a specific itemization of the goods and services purchased with the revolving credit. If the obligation is for more than one good or service, the statement shall include a specific itemization of the obligation so as to provide a reasonable understanding of the obligation.

(3) Loans. – All proceeds from loans shall be recorded separately with a detailed analysis reflecting the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers.

"**§§ 163-278.311 through 163-278.315: Reserved for future codification purposes.**

"**§ 163-278.316. Limitations on contributions.**

(a) No entity shall make, and no treasurer shall accept, any monetary contribution in excess of fifty dollars ($50.00) unless such contribution is in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. No contribution in the form of check, draft, money order, credit card charge, debit, or other noncash method may be made or accepted unless it contains a specific designation of the intended contributee chosen by the contributor.

(b) The State Board of Elections may adopt rules as to the reporting and verification of any method of contribution payment allowed under this Article. For contributions by money order, the State Board shall adopt rules to ensure an audit trail for every contribution so that the identity of the contributor can be determined.

(c) For any contribution made by credit card, the credit card account number of a contributor is not a public record.

(d) No legal expense fund shall accept contributions from a corporation, labor union, insurance company, professional association, or business entity in excess of four thousand dollars ($4,000) per calendar year. No legal expense fund shall accept contributions from a corporation which when totaled with contributions to the same legal expense fund for the same calendar year from any affiliated corporation exceed the per calendar year contribution limits for that legal expense fund. No legal expense fund shall accept contributions from a labor union which when totaled with contributions to the same legal expense fund for the same calendar year from any affiliated labor union exceed the per calendar year contribution limits for that legal expense fund. No legal expense fund shall accept contributions from an insurance company which when totaled with contributions to the same legal expense fund for the same calendar year from any affiliated insurance company exceed the per calendar year contribution limits for that legal expense fund. No legal expense fund shall accept contributions from a professional association which when totaled with contributions to the same legal expense fund for the same calendar year from any affiliated professional association exceed the per calendar year contribution limits for that legal expense fund. No legal expense fund shall accept contributions from a business entity which when totaled with contributions to the same legal expense fund for the same calendar year from any affiliated business entity exceed the per calendar year contribution limits for that legal expense fund. The definitions of corporation, labor union, insurance company, professional association, and business entity are the same as those in G.S. 163-278.6. This subsection does not apply to political committees created pursuant to G.S. 163-278.19(b), except that no legal expense fund shall accept a contribution which would be

a violation of G.S. 163-278.13B if accepted by a candidate or political committee. This subsection does not apply to corporations permitted to make contributions in G.S. 163-278.19(f).

(e) No entity shall make a contribution to a legal expense fund that the legal expense fund could not accept under subsection (d) of this section."

"**§§ 163-278.317 through 163-278.319: Reserved for future codification purposes.**

"**§ 163-278.320. Permitted uses of legal expense funds.**

(a) A legal expense fund may be used for reasonable expenses actually incurred by the elected officer in relation to a legal action or potential legal action brought by or against the elected officer in that elected officer's official capacity. The elected officer's campaign itself shall not be funded from a legal expense fund.

(b) Upon closing a legal expense account, the treasurer shall distribute the remaining monies in the legal expense fund to any of the following:

(1) The Indigent Persons' Attorney Fee Fund under Article 36 of Chapter 7A of the General Statutes.

(2) The North Carolina State Bar for the provision of civil legal services for indigents.

(3) Contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.

(4) To return all or a portion of a contribution to the contributor.

(5) Payment to the Escheat Fund established by Chapter 116B of the General Statutes.

"**§§ 163-278.321 through 163-278.329: Reserved for future codification purposes.**"

SECTION 2. G.S. 163-278.22(7) reads as rewritten:

"(7) To make investigations to the extent the Board deems necessary with respect to statements filed under the provisions of this Article, Article or Article 22M of the General Statutes and, upon complaint under oath by any registered voter, with respect to alleged violations of any part of this Article. Article or Article 22M of the General Statutes."

SECTION 3. G.S. 163-278.22(8) reads as rewritten:

"(8) After investigation, to report apparent violations by candidates, political committees, referendum committees, legal expense funds, individuals or persons to the proper district attorney as provided in G.S. 163-278.27."

SECTION 4. G.S. 163-278.36 is repealed.

SECTION 5. G.S. 163-278.5 reads as rewritten:

"§ **163-278.5. Scope of Article; severability.**

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision.

This section applies to Articles 22B, 22D, 22E, ~~and 22F~~ 22F, 22G, 22H, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 6. G.S. 163-278.23 reads as rewritten:

"§ **163-278.23. Duties of Executive Director of Board.**

The Executive Director of the Board shall inspect or cause to be inspected each statement filed with the Board under this Article within 30 days after the date it is filed. The Executive Director shall advise, or cause to be advised, no more than 30 days and at least five days before each report is due, each candidate or treasurer whose organizational report has been filed, of the specific date each report is due. He shall immediately notify any individual, candidate, treasurer, political committee, referendum committee, media, or other entity that may be required to file a statement under this Article if:

(1) It appears that the individual, candidate, treasurer, political committee, referendum committee, media, or other entity has failed to file a statement as required by law or that a statement filed does not conform to this Article; or

(2) A written complaint is filed under oath with the Board by any registered voter of this State alleging that a statement filed with the Board does not conform to this Article or to the truth or that an individual, candidate, treasurer, political committee, referendum committee, media, or other entity has failed to file a statement required by this Article.

The entity that is the subject of the complaint will be given an opportunity to respond to the complaint before any action is taken requiring compliance.

The Executive Director of the Board of Elections shall issue written opinions to candidates, the communications media, political committees, referendum committees, or other entities upon request, regarding filing procedures and compliance with this Article. Any such opinion so issued shall specifically refer to this paragraph. If the candidate, communications media, political committees, referendum committees, or other entities rely on and comply with the opinion of the Executive Director of the Board of Elections, then prosecution or civil action on account of the procedure followed pursuant thereto and prosecution for failure to comply with the statute inconsistent with the written ruling of the Executive Director of the Board of Elections issued to the candidate or committee involved shall be barred. Nothing in this paragraph shall be construed to prohibit or delay the regular and timely filing of reports. The Executive Director shall file all opinions issued pursuant to this section with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

This section applies to Articles 22B, 22D, 22E, ~~and 22F~~ 22F, 22G, 22H, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 7. This act becomes effective January 1, 2008.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:00 p.m. on the 9th day of August, 2007.

Session Law 2007-350 **House Bill 1546**

AN ACT TO REQUIRE A COMMERCIAL DRIVERS LICENSE THAT HAS A SCHOOL BUS ENDORSEMENT TO EXPIRE THREE YEARS AFTER IT IS ISSUED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(f)(2) reads as rewritten:

"(f) Duration and Renewal of Licenses. – Drivers licenses shall be issued and renewed pursuant to the provisions of this subsection.

…

(2) Duration of license for persons at least 18 years of age or older. – A drivers license issued to a person at least 18 years old but less than 54 years old expires eight years after the date of issuance. A drivers license issued to a person at least 54 years old expires five years after the date of issuance. A commercial drivers license that has a vehicles carrying passengers (P) and school bus (S) endorsement issued pursuant to G.S. 20-37.16 shall expire on the birth date of the licensee three years after the date of issuance, if the licensee is certified to drive a school bus in North Carolina.

…"

SECTION 2. This act is effective 30 days after it becomes law and applies to new and renewal licenses issued on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 12:32 p.m. on the 14th day of August, 2007.

Session Law 2007-351 **House Bill 1374**

AN ACT TO OVERTURN THE SHEPARD CASE AND AMEND THE LIMITATION REGARDING ACTIONS TO RECOVER FOR USURY; TO OVERTURN THE SKINNER CASE AND AMEND THE LONG-ARM STATUTE TO ALLOW NORTH CAROLINA COURTS TO EXERCISE PERSONAL JURISDICTION OVER CERTAIN NONRESIDENT DEFENDANTS; TO REQUIRE THAT A NOTICE OF FORECLOSURE CONTAIN CERTAIN INFORMATION; AND TO PROVIDE FOR MORTGAGE DEBT COLLECTION AND SERVICING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-53(2) reads as rewritten:

"(2) An action to recover the penalty for ~~usury.~~ usury, including an action regarding the financing of usurious points, usurious fees, or other usurious charges; the two-year period shall accrue with each payment made and accepted on the loan."

SECTION 2. G.S. 1-75.4(6) reads as rewritten:

"(6) Local Property. – In any action which arises out of:

a. A promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to create in either party an interest in, or protect, acquire, dispose of, use,

rent, own, control or possess by either party real property situated in this State; or

b. A claim to recover for any benefit derived by the defendant through the use, ownership, control or possession by the defendant of tangible property situated within this State either at the time of the first use, ownership, control or possession or at the time the action is commenced; or

c. A claim that the defendant return, restore, or account to the plaintiff for any asset or thing of value which was within this State at the time the defendant acquired possession or control over it.

d. A claim related to a loan made in this State or deemed to have been made in this State under G.S. 24-2.1, regardless of the situs of the lender, assignee, or other holder of the loan note and regardless of whether the loan payment or fee is received through a loan servicer, provided that: (i) the loan was made to a borrower who is a resident of this State, (ii) the loan is incurred by the borrower primarily for personal, family, or household purposes, and (iii) the loan is secured by a mortgage or deed of trust on real property situated in this State upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families."

SECTION 3. G.S. 24-2.1 reads as rewritten:

"§ **24-2.1. Transactions governed by Chapter.**

(a) For purposes of this Chapter, any extension of credit shall be deemed to have been made in this State, and therefore subject to the provisions of this Chapter if the lender offers or agrees in this State to lend to a borrower who is a resident of this State, or if such borrower accepts or makes the offer in this State to borrow, regardless of the situs of the contract as specified therein.

(b) Any solicitation or communication to lend, oral or written, originating outside of this State, but forwarded to and received in this State by a borrower who is a resident of this State, shall be deemed to be an offer or agreement to lend in this State.

(c) Any solicitation or communication to borrow, oral or written, originating within this State, from a borrower who is a resident of this State, but forwarded to, and received by a lender outside of this State, shall be deemed to be an acceptance or offer to borrow in this State.

(d) Any oral or written offer, acceptance, solicitation or communication to lend or borrow, made in this State to, or received in this State from, a borrower who is not a resident of this State shall be subject to the provisions of this Chapter, applicable federal law, law of the situs of the contract, or law of the residence of any such borrower as the parties may elect.

(e) Any person who acquires a right by contract or by assignment to receive payments under a loan made in this State to an individual or individuals who is a resident of this State at the time of the loan and who benefits from the laws of this State by having the loan secured by real property located in this State is deemed to have consented to the courts of this State having jurisdiction over such person for any claim under this Chapter and for any claim related to the loan instrument.

(f) The provisions of this section shall be severable and if any phrase, clause, sentence or provision is declared to be invalid, the validity of the remainder of this section shall not be affected thereby.

(g) It is the paramount public policy of North Carolina to protect North Carolina resident borrowers through the application of North Carolina interest laws. Any provision of this section which acts to interfere in the attainment of that public policy shall be of no effect."

SECTION 4. G.S. 45-21.16 reads as rewritten:

"§ **45-21.16. Notice and hearing.**

…

(c) Notice shall be in writing and shall state in a manner reasonably calculated to make the party entitled to notice aware of the following:

…

(5a) The holder has confirmed in writing to the person giving the notice, or if the holder is giving the notice, the holder shall confirm in the notice, that, within 30 days of the date of the notice, the debtor was sent by first-class mail at the debtor's last known address a detailed written statement of the amount of ~~principal and interest~~ principal, interest, and any other fees, expenses, and disbursements that the holder in good faith is claiming to be due ~~claims in good faith is owed~~ as of the date of the written statement, together with a daily interest charge based on the contract rate as of the date of the ~~statement, and the amount of other expenses the holder contends it is owed as of the date of the statement.~~ written statement. Nothing herein is intended to authorize any fees, charges, or methods of charging interest which is not otherwise permitted under contract between the parties and other applicable law.

(5b) To the knowledge of the holder, or the servicer acting on the holder's behalf, whether in the two years preceding the date of the statement any requests for information have been made by the borrower to the servicer pursuant to G.S. 45-88 and, if so, whether such requests have been complied with. If the time limits set forth in G.S. 45-88 for complying with any such requests for information have not yet expired as of the date of the notice, the notice shall so state. If the holder is not giving the notice, the holder shall confirm in writing to the person giving the notice the information required by this subsection to be stated in the notice.

(6) Repealed by Session Laws 1977, c. 359, s. 7.

(7) The right of the debtor (or other party served) to appear before the clerk of court at a time and on a date specified, at which appearance he shall be afforded the opportunity to show cause as to why the foreclosure should not be allowed to be held. The notice shall contain ~~a statement that if the debtor does not intend to contest the creditor's allegations of default, the debtor does not have to appear at the hearing and that his failure to attend the hearing will not affect his right to pay the indebtedness and thereby prevent the proposed sale, or to attend the actual sale, should he elect to do so.~~ all of the following:

a. A statement that if the debtor does not intend to contest the creditor's allegations of default, the debtor does not have to

appear at the hearing and that the debtor's failure to attend the hearing will not affect the debtor's right to pay the indebtedness and thereby prevent the proposed sale, or to attend the actual sale, should the debtor elect to do so.

b. A statement that the trustee, or substitute trustee, is a neutral party and, while holding that position in the foreclosure proceeding, may not advocate for the secured creditor or for the debtor in the foreclosure proceeding.

c. A statement that the debtor has the right to apply to a judge of the superior court pursuant to G.S. 45-21.34 to enjoin the sale, upon any legal or equitable ground that the court may deem sufficient prior to the time that the rights of the parties to the sale or resale become fixed, provided that the debtor complies with the requirements of G.S. 45-21.34.

d. A statement that the debtor has the right to appear at the hearing and contest the evidence that the clerk is to consider under G.S. 45-21.16(d), and that to authorize the foreclosure the clerk must find the existence of: (i) valid debt of which the party seeking to foreclose is the holder, (ii) default, (iii) right to foreclose under the instrument, and (iv) notice to those entitled to notice.

e. A statement that if the debtor fails to appear at the hearing, the trustee will ask the clerk for an order to sell the real property being foreclosed.

f. A statement that the debtor has the right to seek the advice of an attorney and that free legal services may be available to the debtor by contacting Legal Aid of North Carolina or other legal services organizations.

(8) That if the foreclosure sale is consummated, the purchaser will be entitled to possession of the real estate as of the date of delivery of his deed, and that the debtor, if still in possession, can then be evicted.

(8a) The name, address, and telephone number of the trustee or mortgagee.

(9) That the debtor should keep the trustee or mortgagee notified in writing of his address so that he can be mailed copies of the notice of foreclosure setting forth the terms under which the sale will be held, and notice of any postponements or resales.

(10) If the notice of hearing is intended to serve also as a notice of sale, such additional information as is set forth in G.S. 45-21.16A.

(11) That the hearing may be held on a date later than that stated in the notice and that the party will be notified of any change in the hearing date.

(c1) The person giving the notice of hearing, if other than the holder, may rely on the written confirmation received from the holder under ~~subdivision~~ subdivisions (c)(5a) and (c)(5b) of this section and is not liable for inaccuracies in the written confirmation. ~~Any dispute concerning the mailing or accuracy of the written statement described in subdivision (c)(5a) of this section shall not be considered in a hearing under this section.~~

…."

SECTION 5. Chapter 45 of the General Statutes is amended by adding a new Article to read:

"Article 10.
"Mortgage Debt Collection and Servicing.

"**§ 45-85. Definitions.**

As used in this Article, the following definitions apply:

(1) Home loan. – A loan secured by real property located in this State used, or intended to be used, by an individual borrower or individual borrowers in this State as a dwelling, regardless of whether the loan is used to purchase the property or refinance the prior purchase of the property or whether the proceeds of the loan are used for personal, family, or business purposes.

(2) Servicer. – A 'servicer' as defined in the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(i). A licensed attorney, who in the practice of law or performing as a trustee, accepts payments related to a loan closing, default, foreclosure, or settlement of a dispute or legal claim related to a loan, shall not be considered a servicer for the purposes of this Article.

"**§ 45-86. Assessment of fees; processing of payments; publication of statements.**

(a) A servicer must comply as to every home loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

(1) Any fee that is incurred by a servicer shall be both:

a. Assessed within 45 days of the date on which the fee was incurred. Provided, however, that attorney or trustee fees and costs incurred as a result of a foreclosure action shall be assessed within 45 days of the date they are charged by either the attorney or trustee to the servicer.

b. Explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address at least 30 days after assessing the fee, provided the servicer shall not be required to take any action in violation of the provisions of the federal bankruptcy code.

(2) All amounts received by a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has made the full contractual payment and has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date. Provided, however, that if any payment is received and not credited, or treated as credited, the borrower shall be notified within 10 business days by mail at the borrower's last known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.

(3) Failure to charge the fee or provide the information within the allowable time and in the manner required under subdivision (1) of subsection (a) of this section constitutes a waiver of such fee.

(4) All fees charged by a servicer must be otherwise permitted under applicable law and the contracts between the parties. Nothing herein is intended to permit the application of payments or method of charging interest which is less protective of the borrower than the contracts between the parties and other applicable law.

"**§ 45-87. Obligation of servicer to handle escrow funds.**

Any servicer that exercises the authority to collect escrow amounts on a home loan held or to be held for the borrower for insurance, taxes, and other charges with respect to the property shall collect and make all payments from the escrow account, so as to ensure that no late penalties are assessed or other negative consequences result. The provisions of this section shall apply regardless of whether the loan is delinquent or in default unless the servicer has a reasonable basis to believe that recovery of these funds will not be possible or the loan is more than 90 days in default.

"**§ 45-88. Borrower requests for information.**

The servicer shall make reasonable attempts to comply with a borrower's request for information about the home loan account and to respond to any dispute initiated by the borrower about the loan account, as provided in this section. The servicer shall maintain, until the home loan is paid in full, otherwise satisfied, or sold, written or electronic records of each written request for information regarding a dispute or error involving the borrower's account. Specifically, the servicer is required to do all of the following:

(1) Provide a written statement to the borrower within 10 business days of receipt of a written request from the borrower that includes or otherwise enables the servicer to identify the name and account of the borrower and includes a statement that the account is or may be in error or otherwise provides sufficient detail to the servicer regarding information sought by the borrower. The borrower is entitled to one such statement in any six-month period free of charge, and additional statements shall be provided if the borrower pays the servicer a reasonable charge for preparing and furnishing the statement not to exceed twenty-five dollars ($25.00) The statement shall include the following information if requested:

a. Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default.

b. The current balance due on the loan, including the principal due, the amount of funds (if any) held in a suspense account, the amount of the escrow balance (if any) known to the servicer, and whether there are any escrow deficiencies or shortages known to the servicer.

c. The identity, address, and other relevant information about the current holder, owner, or assignee of the loan.

d. The telephone number and mailing address of a servicer representative with the information and authority to answer questions and resolve disputes.

(2) Provide the following information and/or documents within 25 business days of receipt of a written request from the borrower that includes or otherwise enables the servicer to identify the name and account of the borrower and includes a statement that the account is or

may be in error or otherwise provides sufficient detail to the servicer regarding information sought by the borrower:

a. A copy of the original note, or if unavailable, an affidavit of lost note.

b. A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the home loan including escrow account activity and suspense account activity, if any. The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the home loan for the entire two-year time period the servicer shall provide the information going back to the date on which the servicer began servicing the home loan. For purposes of this subsection, the date of the request for the information shall be presumed to be no later than 30 days from the date of the receipt of the request. If the servicer claims that any delinquent or outstanding sums are owed on the home loan prior to the two-year period or the period during which the servicer has serviced the loan, the servicer shall provide an account history beginning with the month that the servicer claims any outstanding sums are owed on the loan up to the date of the request for the information. The borrower is entitled to one such statement in any six-month period free of charge. Additional statements shall be provided if the borrower pays the servicer a reasonable charge for preparing and furnishing the statement not to exceed fifty dollars ($50.00).

(3) Promptly correct errors relating to the allocation of payments, the statement of account, or the payoff balance identified in any notice from the borrower provided in accordance with subdivision (2) of this section, or discovered through the due diligence of the servicer or other means.

"§ **45-89. Remedies.**

In addition to any equitable remedies and any other remedies at law, any borrower injured by any violation of this Article may bring an action for recovery of actual damages, including reasonable attorneys' fees. The Commissioner of Banks, the Attorney General, or any party to a home loan may enforce the provisions of this section. With the exception of an action by the Commissioner of Banks or the Attorney General, at least 30 days before a borrower or a borrower's representative institutes a civil action for damages against a servicer for a violation of this Article, the borrower or a borrower's representative shall notify the servicer in writing of any claimed errors or disputes regarding the borrower's home loan that forms the basis of the civil action. The notice must be sent to the address as designated on any of the servicer's bills, statements, invoices, or other written communication, and must enable the servicer to identify the name and loan account of the borrower. For purposes of this section, notice shall not include a complaint or summons. Nothing in this section shall limit the rights of a borrower to enjoin a civil action, or make a counterclaim, cross-claim, or plead a

defense in a civil action. A servicer will not be in violation of this Article if the servicer shows by a preponderance of evidence that:

(1) The violation was not intentional or the result of bad faith; and

(2) Within 30 days after discovering or being notified of an error, and prior to the institution of any legal action by the borrower against the servicer under this section, the servicer corrected the error and compensated the borrower for any fees or charges incurred by the borrower as a result of the violation.

"**§ 45-90. Severability.**

The provisions of this Article shall be severable, and if any phrase, clause, sentence, or provision is declared to be invalid or is preempted by federal law or regulation, the validity of the remainder of this section shall not be affected thereby. If any provision of this Article is declared to be inapplicable to any specific category, type, or kind of points and fees, the provisions of this Article shall nonetheless continue to apply with respect to all other points and fees."

SECTION 6. Sections 4 and 5 of this act become effective April 1, 2008. All other sections of this act are effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 11:47 a.m. on the 16th day of August, 2007.

Session Law 2007-352 **House Bill 1817**

AN ACT TO PROTECT CONSUMERS REGARDING COVERED LOANS AND TO INCREASE THE COMMISSIONER'S DISCIPLINARY AUTHORITY OVER LICENSEES UNDER THE MORTGAGE LENDING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 24-1.1E(a)(5) reads as rewritten:

"(5) "Points and fees" is defined as provided in this subdivision.

a. The term includes all of the following:

1. All items required to be disclosed under sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, as amended from time to time, except interest or the time-price differential.

2. All charges for items listed under section 226.4(c)(7) of Title 12 of the Code of Federal Regulations, as amended from time to time, but only if the lender receives direct or indirect compensation in connection with the charge or the charge is paid to an affiliate of the lender; otherwise, the charges are not included within the meaning of the phrase "points and fees".

3. ~~All compensation paid directly by the borrower to a mortgage broker not otherwise included in sub-subdivision a.1. or a.2. of this subdivision.~~To the extent not otherwise included in sub-subdivision a.1. or a.2. of this subdivision, all compensation paid from any source to a mortgage broker, including compensation

paid to a mortgage broker in a table-funded transaction. A bona fide sale of a loan in the secondary mortgage market shall not be considered a table-funded transaction, and a table-funded transaction shall not be considered a secondary market transaction.

4. The maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents.

b. Notwithstanding the remaining provisions of this subdivision, the term does not include (i) taxes, filing fees, recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest; and (ii) fees paid to a person other than a lender or an affiliate of the lender or to the mortgage broker or an affiliate of the mortgage broker for the following: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determinations; appraisal fees; fees for inspections performed prior to closing; credit reports; surveys; attorneys' fees (if the borrower has the right to select the attorney from an approved list or otherwise); notary fees; escrow charges, so long as not otherwise included under sub-subdivision a. of this subdivision; title insurance premiums; and ~~fire~~ premiums for insurance against loss or damage to property, including hazard insurance and flood insurance premiums, provided that the conditions in section 226.4(d)(2) of Title 12 of the Code of Federal Regulations are met.

c. For open-end credit plans, the term includes those points and fees described in sub-subdivisions a.1. through a.3. of this subdivision that are charged at or before loan closing, plus (i) the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total loan amount, and (ii) the maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents."

SECTION 2. G.S. 24-1.1E(a) is amended by adding the following new subdivisions to read:

"(4a) "Mortgage broker" is as defined in G.S. 53-243.01(14).

…

(5a) A "table-funded transaction" is a loan transaction closed by a mortgage broker in the mortgage broker's own name with funds advanced by a person other than the mortgage broker in which the loan is assigned contemporaneously or within one business day of the funding of the loan to the person that advanced the funds."

SECTION 3. G.S. 24-1.1E is amended by adding a new subsection to read:

"(g) A mortgage broker who brokers a high-cost home loan that violates any provisions of subsection (b) or (c) of this section shall be jointly and severally liable with the lender."

SECTION 4. Article 1 of Chapter 24 of the General Statutes is amended by adding a new section to read:

"**§ 24-1.1F. Rate spread home loans.**

"(a) Definitions.–The following definitions apply for purposes of this section:

(1) Annual percentage rate. – The annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act (15 U.S.C. § 1601, et seq.) and the regulations promulgated thereunder by the Federal Reserve Board, as that Act and regulations are amended from time to time.

(2) Closed-end loan. – A loan other than an open-end credit plan as defined in this section.

(3) Home loan. – A loan that has all of the following characteristics:

a. The loan is not an equity line of credit as defined in G.S. 24-9(a)(2), a construction loan as defined in G.S. 24-10(c), or a reverse mortgage transaction.

b. The borrower is a natural person.

c. The debt is incurred by the borrower primarily for personal, family, or household purposes.

d. The principal amount of the loan does not exceed the conforming loan size limit for a single-family dwelling as established from time to time for Fannie Mae.

e. The loan is secured by (i) a security interest in a manufactured home, as defined in G.S. 143-147(7), in the State which is or will be occupied by the borrower as the borrower's principal dwelling, (ii) a mortgage or deed of trust on real property in the State upon which there is located an existing structure designed principally for occupancy of from one to four families that is or will be occupied by the borrower as the borrower's principal dwelling, or (iii) a mortgage or deed of trust on real property in the State upon which there is to be constructed using the loan proceeds a structure or structures designed principally for occupancy of from one to four families which, when completed, will be occupied by the borrower as the borrower's principal dwelling.

f. A purpose of the loan is to (i) purchase the dwelling, (ii) construct, repair, rehabilitate, remodel, or improve the dwelling or the real property on which it is located, (iii) satisfy and replace an existing obligation secured by the same real property, or (iv) consolidate existing consumer debts into a new home loan.

(4) Mortgage broker. – A mortgage broker as defined in G.S. 53-243.01(14).

(5) Obligor. – Each borrower, co-borrower, cosigner, or guarantor obligated to repay a rate spread home loan.

(6) Open-end credit plan. – Credit extended by a lender under a plan in which (i) the lender reasonably contemplates repeated transactions, (ii) the lender may charge interest or otherwise impose a finance charge from time to time on an outstanding unpaid balance, and (iii) the amount of credit that may be extended to the obligor during the term of the plan, up to any credit limit set by the lender, is generally made available to the extent that any outstanding balance is repaid.

(7) Rate spread home loan. – A home loan in which all the following apply:

a. The difference between the annual percentage rate for the loan and the yield on U.S. Treasury securities having comparable periods of maturity is either equal to or greater than (i) 3 percentage points (3%), if the loan is secured by a first lien mortgage or deed of trust, or (ii) 5 percentage points (5%), if the loan is secured by a subordinate lien mortgage or deed of trust. Without regard to whether the loan is subject to or reportable under the provisions of the Home Mortgage Disclosure Act (12 U.S.C. § 2801, et seq.) (HMDA), the difference between the annual percentage rate and the yield on Treasury securities having comparable periods of maturity shall be determined using the same procedures and calculation methods applicable to loans that are subject to the reporting requirements of HMDA, as those procedures and calculation methods are amended from time to time, provided that the yield on Treasury securities shall be determined as of the fifteenth day of the month prior to the application for the loan.

b. The difference between the annual percentage rate for the loan and the conventional mortgage rate is either equal to or greater than (i) 1.75 percentage points (1.75%), if the loan is secured by a first lien mortgage or deed of trust, or (ii) 3.75 percentage points (3.75%), if the loan is secured by a subordinate lien mortgage or deed of trust. For purposes of this calculation, the "conventional mortgage rate" means the most recent daily contract interest rate on commitments for fixed-rate first mortgages published by the Board of Governors of the Federal Reserve System in its Statistical Release H.15, or any publication that may supersede it, during the week preceding the week in which the interest rate for the loan is set.

(b) No prepayment fees or penalties shall be charged or collected on a rate spread home loan.

(c) No lender shall make a rate spread home loan unless the lender reasonably and in good faith believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, has the ability to repay the loan according to its terms and to pay applicable real estate taxes and hazard insurance premiums. If a lender making a rate spread home loan knows that one or more mortgage loans secured by the same real property will be made contemporaneously to the same borrower with the rate spread home loan being made by that lender, the lender making the rate spread home loan must document the borrower's ability to repay the combined payments of all loans on the same real property.

(1) A lender's analysis of an obligor's ability to repay a rate spread home loan according to the loan terms and to pay related real estate taxes and insurance premiums shall be based on a consideration of the obligor's credit history, current and expected income, current obligations, employment status, and other financial resources other than the obligor's equity in the real property that secures repayment of the rate spread home loan.

(2) In determining an obligor's ability to repay a rate spread home loan, the lender shall take reasonable steps to verify the accuracy and completeness of information provided by or on behalf of the obligor using tax returns, payroll receipts, bank records, reasonable alternative methods, or reasonable third-party verification.

(3) In determining an obligor's ability to repay a rate spread home loan according to its terms when the loan has an adjustable rate feature, the lender shall take into consideration any balance increase that may accrue from any negative amortization provision. The lender shall calculate the monthly payment amount for principal and interest by assuming (i) the loan proceeds are fully disbursed on the date of the loan closing, (ii) the loan is to be repaid in substantially equal monthly amortizing payments of principal and interest over the entire term of the loan, with no balloon payment, and (iii) the interest rate over the entire term of the loan is a fixed rate equal to the fully indexed interest rate at the time of the loan closing, without considering any initial discounted rate. The "fully indexed interest rate at the time of the loan closing" is the interest rate that would have applied at the time of the closing had the initial interest rate been determined by the application of the same interest rate formula, (for example, an interest rate index plus or minus a margin) that applies under the terms of the loan documents to subsequent interest rate adjustments, disregarding any limitations on the amount by which the interest rate may change at any one time.

(4) A lender's analysis of an obligor's ability to repay a rate spread loan may utilize reasonable commercially recognized underwriting standards and methodologies, including automated underwriting systems, provided the standards and methodologies comply with the provisions of this section.

(d) The making of a rate spread home loan which violates subsection (b) or (c) of this section is hereby declared usurious in violation of the provisions of this Chapter. In addition, any prepayment penalty in violation of this section shall be unenforceable. However, an obligor shall not be entitled to recover twice for the same wrong. The Attorney General, the Commissioner of Banks, or any party to a rate spread home loan may enforce the provisions of this section. This section establishes specific consumer protections in rate spread home loans in addition to other consumer protections that may be otherwise available by law. A mortgage broker who brokers a rate spread home loan that violates the provisions of this section shall be jointly and severally liable with the lender.

(e) The provisions of this section shall apply to any person who in bad faith attempts to avoid the application of this section by (i) dividing any loan transaction into separate parts for the purpose and with the intent of evading the provisions of this section, or (ii) any other such subterfuge.

(f) A lender in a rate spread home loan who, when acting in good faith, fails to comply with this section, will not be deemed to have violated this section if the lender establishes that either:

(1) Within 90 days of the loan closing and prior to the institution of any action against the lender under this section, the borrower was notified of the compliance failure, the lender tendered appropriate restitution,

the lender offered, at the borrower's option, either to (i) make the rate spread home loan comply with subsection (b) or (c), or (ii) change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a rate spread home loan subject to the provisions of this section, and within a reasonable period of time following the borrower's election of remedies, the lender took appropriate action based on the borrower's choice; or

(2) The compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, and within 120 days after the discovery of the compliance failure and prior to the institution of any action against the lender under this section or the lender's receipt of written notice of the compliance failure, the borrower was notified of the compliance failure, the lender tendered appropriate restitution, the lender offered, at the borrower's option, either to (i) make the rate spread home loan comply with subsection (b) or (c) of this section, or (ii) change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a rate spread home loan subject to the provisions of this section, and within a reasonable period of time following the borrower's election of remedies, the lender took appropriate action based on the borrower's choice. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

(g) The provisions of this section shall be severable, and if any phrase, clause, sentence, or provision is declared to be invalid or is preempted by federal law or regulation, the validity of the remainder of this section shall not be affected thereby."

SECTION 5. G.S. 24-10.2 is amended by adding a new subsection to read:

"(h) A mortgage broker who brokers a consumer home loan that violates the provisions of this section shall be jointly and severally liable with the lender."

SECTION 6. G.S. 53-243.04 reads as rewritten:

"§ **53-243.04. Rule-making authority.**

The ~~Banking Commission~~Commissioner may adopt any rules ~~when it~~ that the Commissioner deems necessary to carry out the provisions of this Article, to provide for the protection of the borrowing public, ~~and~~ to instruct mortgage lenders or brokers in interpreting this ~~Article.~~Article, and to implement and interpret the provisions of G.S. 24-1.1E, 24-1.1F, and 24-10.2 as they apply to licensees under this Article."

SECTION 7. G.S. 53-243.10 reads as rewritten:

"§ **53-243.10. Mortgage broker duties.**

A mortgage broker, including any mortgage broker licensee and any person required to be licensed as a mortgage broker under this Article, shall, in addition to duties imposed by other statutes or at common ~~law:~~law, shall do all of the following:

(1) Safeguard and account for any money handled for the ~~borrower;~~borrower.

(2) Follow reasonable and lawful instructions from the ~~borrower;~~borrower.

(3) Act with reasonable skill, care, and ~~diligence; and~~diligence.

(4) Make reasonable efforts~~, with lenders with whom the broker regularly does business~~ to secure a loan that is reasonably advantageous to the borrower considering all the circumstances, including the rates, charges, and repayment terms of the ~~loan and the loan options for which the borrower qualifies with such lenders.~~ loan.

(5) Timely and clearly disclose to the borrower material information as specified by the Commission that may be expected to influence the borrower's decision and is reasonably accessible to the mortgage broker, including the total compensation the mortgage broker expects to receive from any and all sources in connection with each loan option presented to the borrower.

(6) Notify before closing each lender of the particulars of each of the other lender's loans if the mortgage broker knows that more than one mortgage loan will be made by different lenders contemporaneously to a borrower secured by the same real property.

(7) Ensure that any services offered to any applicant shall be available and offered to all similarly situated applicants on an equal basis.

(8) In transactions where the broker has the ability to make credit decisions, use reasonable means to provide borrower with prompt credit decisions on its loan applications and, where the credit is denied, to comply fully with the notification requirements applicable state and federal law.

(9) Ensure that its advertising materials are designed to make customers and potential customers aware that one mortgage broker does not discriminate on any prohibited basis.

(10) Provide applicants to whom credit has been denied opportunities to correct or explain adverse or inadequate information, or to provide additional information."

SECTION 8. G.S. 53-243.11 reads as rewritten:

"§ **53-243.11. Prohibited activities.**

In addition to the activities prohibited under other provisions of this Article, it shall be unlawful for any person in the course of any mortgage loan transaction:

(1) To misrepresent or conceal the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan, or to pursue a course of misrepresentation through agents or otherwise.

(2) To refuse improperly to issue a satisfaction of a mortgage.

(3) To fail to account for or to deliver to any person any funds, documents, or other thing of value obtained in connection with a mortgage loan, including money provided by a borrower for a real estate appraisal or a credit report, which the mortgage banker, broker, or loan officer is not entitled to retain under the circumstances.

(4) To pay, receive, or collect in whole or in part any commission, fee, or other compensation for brokering a mortgage loan in violation of this Article, including a mortgage loan brokered by any unlicensed person other than an exempt person.

(5) To charge or collect any fee or rate of interest or to make or broker any mortgage loan with terms or conditions or in a manner contrary to the provisions of Chapter 24 of the General Statutes.

(6) To advertise mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on the loans, unless the person is able to make the mortgage loans available to a reasonable number of qualified applicants.

(7) To fail to disburse funds in accordance with a written commitment or agreement to make a mortgage loan.

(8) To engage in any transaction, practice, or course of business that is not in good faith or fair dealing or that constitutes a fraud upon any person, in connection with the brokering or making of, or purchase or sale of, any mortgage loan.

(9) To fail promptly to pay when due reasonable fees to a licensed appraiser for appraisal services that are:
   a. Requested from the appraiser in writing by the mortgage broker or mortgage banker or an employee of the mortgage broker or mortgage banker; and
   b. Performed by the appraiser in connection with the origination or closing of a mortgage loan for a customer or the mortgage broker or mortgage banker.

(10) To broker a mortgage loan ~~which~~ that contains a prepayment penalty if the principal amount of the loan is one hundred fifty thousand dollars ($150,000) or ~~less.~~less or if the loan is a rate spread home loan as defined in G.S. 24-1.1F.

(11) To improperly influence or attempt to improperly influence ~~through coercion, extortion, or bribery,~~ the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. Nothing in this subdivision shall be construed to prohibit a mortgage broker or mortgage banker from asking the appraiser to do one or more of the following:
   a. Consider additional appropriate property information.
   b. Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
   c. Correct errors in the appraisal report.

(12) To fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2605 and § 2609, and regulations adopted there under by the Secretary of the Department of Housing and Urban Development.

(13) To broker a rate spread adjustable rate mortgage loan without disclosing to the borrower the terms and costs associated with a fixed rate loan from the same lender at the lowest annual percentage rate for which the borrower qualifies.

(14) To fail to comply with applicable federal laws and regulations related to mortgage lending.

(15) To engage in unfair, misleading, or deceptive advertising related to a solicitation for a mortgage loan."

SECTION 9. G.S. 53-243.12 is amended by adding a new subsection to read:

"(m) Subject to the provisions of G.S. 53-243.03, the Commissioner may, by order, prohibit licensees under this Article from engaging in acts and practices in connection with mortgage loans that the Commissioner finds to be unfair, deceptive, designed to evade the laws of this State, or that are not in the best interest of the borrowing public."

SECTION 10. This act becomes effective January 1, 2008. Section 1 of this act applies to consumer home loans entered into on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:48 a.m. on the 16th day of August, 2007.

Session Law 2007-353 **House Bill 947**

AN ACT TO REQUIRE THAT A NOTICE OF SALE IN FORECLOSURE PROCEEDINGS BE SENT TO CERTAIN TENANTS RESIDING IN THE PROPERTY TO BE SOLD, TO ALLOW THOSE TENANTS AFTER RECEIVING THE NOTICE TO TERMINATE THE RENTAL AGREEMENT UPON TEN DAYS' WRITTEN NOTICE TO THE LANDLORD, TO REQUIRE THAT THOSE TENANTS BE GIVEN THIRTY DAYS' NOTICE OF AN APPLICATION FOR AN ORDER FOR POSSESSION, AND TO CLARIFY THAT THE PROCEEDS IN THE AUTOMATION ENHANCEMENT AND PRESERVATION FUND MAY BE USED FOR THE PRESERVATION AND STORAGE OF PUBLIC RECORDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-21.16A reads as rewritten:

"§ **45-21.16A. Contents of notice of sale.**

(a) ~~The notice of sale shall~~ Except as provided in subsection (b) of this section, the notice of sale shall include all of the following:

(1) Describe the instrument pursuant to which the sale is held, by identifying the original mortgagors and recording data. If the record owner is different from the original mortgagors, the notice shall also list the record owner of the property, as reflected on the records of the register of deeds not more than 10 days prior to posting the notice. The notice may also reflect the owner not reflected on the records if ~~known;~~known.

(2) Designate the date, hour and place of sale consistent with the provisions of the instrument and this ~~Article;~~Article.

(3) Describe the real property to be sold in ~~such~~ a manner ~~as~~ that is reasonably calculated to inform the public as to what is being ~~sold,~~sold. The ~~which~~ description may be in general terms and may incorporate by reference the description ~~as~~ used in the instrument containing the power of ~~sale by reference thereto.~~ sale. Any property described in the instrument containing the power of sale which is not being offered for sale should also be described in ~~such~~ a manner ~~as~~ to enable prospective purchasers to determine what is and what is not being offered for ~~sale;~~sale.

(4) Repealed by Session Laws 1967, c. 562, s. 2.

(5) State the terms of the sale provided for by the instrument pursuant to which the sale is held, including the amount of the cash deposit, if any, to be made by the highest bidder at the ~~sale;~~sale.

(6) Include any other provisions required by the instrument to be ~~included therein;~~included.

(7) State that the property will be sold subject to taxes and special assessments if it is to be so ~~sold; and~~sold.

(8) State whether the property is being sold subject to or together with any subordinate rights or interests provided those rights and interests are sufficiently identified.

(b) In addition to the requirements contained in subsection (a) of this section, the notice of sale of residential real property with less than 15 rental units shall also state all of the following:

(1) That an order for possession of the property may be issued pursuant to G.S. 45-21.29 in favor of the purchaser and against the party or parties in possession by the clerk of superior court of the county in which the property is sold.

(2) Any person who occupies the property pursuant to a rental agreement entered into or renewed on or after October 1, 2007, may, after receiving the notice of sale, terminate the rental agreement upon 10 days' written notice to the landlord. The notice shall also state that upon termination of a rental agreement, the tenant is liable for rent due under the rental agreement prorated to the effective date of the termination."

SECTION 2. G.S. 45-21.17(4) reads as rewritten:

"(4) The notice of sale shall be mailed by first-class mail at least 20 days prior to the date of sale to each party entitled to notice of the hearing provided by G.S. 45-21.16 whose address is known to the trustee or mortgagee and in addition shall also be mailed by first-class mail to any party desiring a copy of the notice of sale who has complied with G.S. 45-21.17A. If the property is residential and contains less than 15 rental units, the notice of sale shall also be mailed to any person who occupies the property pursuant to a residential rental agreement by name, if known, at the address of the property to be sold. If the name of the person who occupies the property is not known, the notice shall be sent to "occupant" at the address of the property to be sold. Notice of the hearing required by G.S. 45-21.16 shall be sufficient to satisfy the requirement of notice under this section provided such notice contains the information required by G.S. 45-21.16A."

SECTION 3. Article 5 of Chapter 42 of the General Statutes is amended by adding a new section to read:

"**§ 42-45.2 Early termination of rental agreement by military and tenants residing in certain foreclosed property.**

Any tenant who resides in residential real property containing less than 15 rental units that is being sold in a foreclosure proceeding under Article 2A of Chapter 45 of the General Statutes may terminate the rental agreement for the dwelling unit after receiving notice pursuant to G.S. 45-21.17(4) by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 10 days after the date of the notice of sale. Upon termination of a rental agreement under this

section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at the time that would have been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due only to the early termination of the tenancy."

SECTION 4. G.S. 45-21.29 reads as rewritten:

"§ **45-21.29. Orders for possession.**

(a), (j) Repealed by Session Laws 1993, c. 305, s. 18.

(k) Orders for possession of real property sold pursuant to this Article, in favor of the purchaser and against any party or parties in possession at the time of application therefor, may be issued by the clerk of the superior court of the county in which ~~such~~ the property is ~~sold, when:~~sold if all of the following apply:

(1) ~~Such~~ The property has been sold in the exercise of the power of sale contained in any mortgage, deed of trust, leasehold mortgage, leasehold deed of trust, or a power of sale authorized by any other statutory ~~provisions,~~provisions.

(2) Repealed by Session Laws 1993, c. 305, s. 18.

(2a) The provisions of this Article have been complied ~~with,~~with.

(3) The sale has been consummated, and the purchase price has been ~~paid,~~paid.

(4) The purchaser has acquired title to and is entitled to possession of the real property ~~sold,~~sold.

(5) Ten days' notice has been given to the party or parties who remain in possession at the time application is made, ~~and~~ or, in the case of residential property containing 15 or more rental units, 30 days' notice has been given to the party or parties who remain in possession at the time the application is made.

(6) Application is made by petition to ~~such~~ the clerk by the mortgagee, the trustee, the purchaser of the property, or any ~~such person's~~ authorized ~~representative.~~representative of the mortgagee, trustee, or purchaser of the property.

(l) An order for possession issued pursuant to G.S. 45-21.29(k) shall be directed to the sheriff and shall authorize ~~him~~ the sheriff to remove all occupants and their personal property from the premises and to put the purchaser in possession, and shall be executed in accordance with the procedure for executing a writ or order for possession in a summary ejectment proceeding under G.S. 42-36.2. The purchaser shall have the same rights and remedies in connection with the execution of an order for possession and the disposition of personal property following execution as are provided to a landlord under North Carolina law, including Chapters 42 and 44A of the General Statutes.

(m) When the real property sold is situated in more than one county, the provisions of subsection (l) of this section shall be complied with in each county in which any part of the property is situated."

SECTION 5. G.S. 161-11.3 reads as rewritten:

"§ **161-11.3. Automation Enhancement and Preservation Fund.**

Ten percent (10%) of the fees collected pursuant to G.S. 161-10 and retained by the county shall be set aside annually and placed in a nonreverting Automation Enhancement and Preservation Fund, the proceeds of which shall be expended on computer ~~and~~ or imaging technology and needs associated with the preservation and storage of public records in the office of the register of deeds. Nothing in this section

shall be construed to affect the duty of the board of county commissioners to furnish supplies and equipment to the office of the register of deeds."

SECTION 6. This act becomes effective October 1, 2007. Section 3 of this act applies to residential rental agreements entered into or renewed on or after that date. Sections 1 and 2 apply to notices of sale issued on or after that date.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 11:49 a.m. on the 16th day of August, 2007.

Session Law 2007-354 **Senate Bill 371**

AN ACT TO PROHIBIT COMMERCIAL USE OF LIKENESSES OF ANY SEAL OR COAT OF ARMS OF THE SENATE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 31 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-271. Use of likenesses of any seal or coat of arms of the Senate.**

(a) Whoever, except as directed by the Senate or the Principal Clerk of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of any seal or coat of arms of the Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the State of North Carolina, shall be guilty of a Class 2 misdemeanor.

(b) A violation of this section may be enjoined at the suit of the Attorney General."

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

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 12:32 p.m. on the 17th day of August, 2007.

Session Law 2007-355 **Senate Bill 448**

AN ACT DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF AGING AND ADULT SERVICES, TO STUDY PROGRAM AND SERVICE LEVELS AND NEEDS FOR OLDER ADULTS IN BRUNSWICK, BUNCOMBE, GASTON, HENDERSON, MOORE, AND NEW HANOVER COUNTIES.

Whereas, according to information from the Demographic Unit, Office of State Budget and Management, between 2000 and 2030, population growth for the state as a whole is projected at 52.5%, while the population 65 and older is expected to grow 123% and the population 85 and older is expected to increase 146%; and

Whereas, in 2005, 28 counties in North Carolina had more persons age 60 and older than persons age 17 and younger, and of those counties, Henderson, Brunswick and Moore Counties had the largest number of 60+ persons; and

Whereas, it is projected that by 2030, 75 of North Carolina's counties will have more persons age 60 and older than 17 and younger, and of those counties, Buncombe, New Hanover, and Gaston are projected to have the largest number of 60+ persons; and

Whereas, North Carolina has been selected as one of eight states to work with the U.S. Administration on Aging to assist the Division of Aging and Adult Services and the Area Agencies on Aging in developing a comprehensive planning model for aging and placing an emphasis on strengthening local planning for an aging population; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Aging and Adult Services, shall work with the Division of Health Service Regulation; Division of Medical Assistance; Division of Public Health; and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to study programs and services for older adults in Brunswick, Buncombe, Gaston, Henderson, Moore, and New Hanover Counties which currently have, or are projected by 2030 to have, the largest numbers of individuals age 60+ when compared to individuals age 17 and younger. In conducting the study, the Division shall utilize existing data and resources and shall include the Area Agencies on Aging serving each county studied. The study shall include the following for each county studied:

(1) A profile of the current older adult population.
(2) A profile of the projected growth for the older adult population.
(3) An assessment of the anticipated impact on programs and services that address the needs of the older adult population.
(4) Identification of programs and services that are currently in place.
(5) Identification of programs and services that are needed to meet the growth projections.
(6) Current funding sources for programs and services serving the older adult population.
(7) Anticipated funding needs for programs and services serving the older adult population.
(8) A delineation of the programs and services that are shared or offered jointly with another county.

The Division shall make an interim status report on the study to the North Carolina Study Commission on Aging on or before November 1, 2007. The Division shall make a final report of its findings and recommendations on or before April 1, 2008, to the 2008 Regular Session of the 2007 General Assembly, the North Carolina Study Commission on Aging, and to the board of county commissioners of each county studied.

SECTION 2. In response to the growth projections for the age 60+ population, the Division of Aging and Adult Services shall make recommendations on a study to include all counties in North Carolina. The Division shall evaluate similar studies conducted by other states and shall make recommendations on the criteria that should be included and an appropriate funding level for a study to include all North Carolina counties. The Division shall report findings and recommendations to the North Carolina Study Commission on Aging on or before January 1, 2008.

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

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Became law upon approval of the Governor at 12:35 p.m. on the 17th day of August, 2007.

Session Law 2007-356 **House Bill 1402**

AN ACT REQUIRING THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF TRANSPORTATION TO CONSULT WITH THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS BEFORE BEGINNING THE DESIGN OR CONSTRUCTION OF NEW WELCOME CENTER OR VISITOR CENTER BUILDINGS AND CLARIFYING THAT THE DEPARTMENT OF TRANSPORTATION MAY PROCEED WITH THE CONSTRUCTION OF VISITOR CENTER BUILDINGS UNDERWAY IN RANDOLPH AND WILKES COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Commerce and the Department of Transportation shall consult with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources before beginning the design or construction of any new welcome center or visitor center buildings.

SECTION 2. The Department of Commerce and the Department of Transportation shall immediately cease the planning, design, or construction of any new welcome center buildings in Randolph County and shall not resume the planning, design, or construction of any new welcome center buildings in that county before consulting with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources.

SECTION 3. Nothing in this act shall be interpreted to prohibit or restrict the Department of Transportation from constructing visitor center buildings in Randolph County and Wilkes County that were in the planning, design, or construction phase prior to the effective date of this act. The Department of Commerce shall operate the Randolph County visitor center with funding sources consistent with the existing nine welcome centers, excluding use of funds from the Special Registration Plate Account and the Highway Fund.

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 12:36 p.m. on the 17th day of August, 2007.

Session Law 2007-357 **House Bill 610**

AN ACT TO SET THE NUMBER OF DESIGN-BUILD CONSTRUCTION CONTRACTS THAT MAY BE AWARDED BY THE DEPARTMENT OF TRANSPORTATION AT TWENTY-FIVE CONTRACTS EACH FISCAL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-28.11 reads as rewritten:

"§ **136-28.11. Design-build construction of transportation projects.**

(a) Design-Build Contracts Authorized. – Notwithstanding any other provision of law, the Board of Transportation may award contracts for ~~10 projects in fiscal year 2002-2003, and 25 projects in fiscal years 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009~~up to 25 projects each fiscal year for construction of transportation projects on a design-build basis.

(b) Design-Build Contract Amounts; Basis of Award. – The Department may award contracts for the construction of transportation projects on a design-build basis of any amount. The Department shall endeavor to ensure design-build projects are awarded on a basis to maximize participation, competition, and cost benefit. On any project for which the Department proposes to use the design-build contracting method, the Department shall attempt to structure and size the contracts for the project in order that contracting firms and engineering firms based in North Carolina have a fair and equal opportunity to compete for the contracts.

(c) Disadvantaged Business Participation Goals. – The provisions of G.S. 136-28.4 and 49 C.F.R. Part 26 shall apply to the award of contracts under this section.

(d) Findings Required. – These contracts may be awarded after a determination by the Department of Transportation that delivery of the projects must be expedited and that it is not in the public interest to comply with normal design and construction contracting procedures.

(e) Reporting Requirements. – The Department, for any proposed design-build project projected to have a construction cost in excess of ~~one hundred~~ fifty million dollars ~~($100,000,000),~~ ($50,000,000), shall present to the Joint Legislative Transportation Oversight Committee information on the scope and nature of the project and the reasons the development of the project on a design-build basis will best serve the public interest. ~~Prior to the award of a design-build contract, the Secretary of Transportation shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations on the nature and scope of the project and the reasons an award on a design-build basis will best serve the public interest.~~"

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 12:37 p.m. on the 17th day of August, 2007.

Session Law 2007-358 **Senate Bill 882**

AN ACT TO AUTHORIZE THE INDUSTRIAL COMMISSION TO EMPLOY SWORN LAW ENFORCEMENT OFFICERS TO PERFORM FRAUD INVESTIGATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-88.2(b) reads as rewritten:

"(b) The Commission shall:

(1) Perform investigations regarding all cases of suspected fraud and all violations related to workers' compensation claims, by or against

insurers or self-funded employers, and refer possible criminal violations to the appropriate prosecutorial authorities;

(2) Conduct administrative violation proceedings; and

(3) Assess and collect civil penalties and restitution.

The Commission may employ sworn law enforcement officers duly appointed and certified through the North Carolina Criminal Justice Education and Training Standards Commission to conduct the investigations mandated by this subsection."

SECTION 2. This act becomes effective September 1, 2007.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 12:38 p.m. on the 17th day of August, 2007.

Session Law 2007-359 **House Bill 958**

AN ACT TO DESIGNATE THE GRAVEYARD OF THE ATLANTIC MUSEUM AS A MEMBER OF THE STATE HISTORY MUSEUMS DIVISION IN THE DEPARTMENT OF CULTURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-7.4. Graveyard of the Atlantic Museum.**

The Department of Cultural Resources shall assume from the Graveyard of the Atlantic Museum, the administration of the Graveyard of the Atlantic Museum on Hatteras Island and shall designate it as a member of the State History Museums Division, in accordance with the feasibility study conducted by the Department."

SECTION 1.(b) Subject to the provisions of G.S. 121-9 and contingent upon successful lease negotiations with the National Park Service and the National Oceanic and Atmospheric Administration, this section becomes effective only if the Graveyard of the Atlantic Museum transfers and conveys to the State all its assets.

SECTION 2. If funds are appropriated by the 2007 General Assembly to a reserve for pending legislation, then of those funds, the sum of three hundred thousand dollars ($300,000) for the 2007-2008 fiscal year and the sum of three hundred thousand dollars ($300,000) for the 2008-2009 fiscal year shall be allocated to the Department of Cultural Resources to assume administration of the Graveyard of the Atlantic Museum and designate it as a member of the State History Museums Division. The Department may use the funds to create up to six new positions to staff the Graveyard of the Atlantic Museum.

SECTION 3. Except as provided in Section 1 of this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 12:38 p.m. on the 17th day of August, 2007.

Session Law 2007-360 **House Bill 563**

AN ACT TO MAKE CHANGES IN MOTOR VEHICLE LAW REGARDING WHAT "PUBLIC SERVICE VEHICLE" MEANS, CHANGING THE WORD STOPLIGHT TO TRAFFIC SIGNAL, CHANGING THE TIME ALLOWED FOR REMOVAL OF A VEHICLE FROM A PUBLIC HIGHWAY OR REST AREA, AUTHORIZING LOCAL GOVERNMENTS TO ADOPT ORDINANCES REGULATING DEMONSTRATIONS ON STATE ROADS AND HIGHWAYS, AND THE WEARING OF A SAFETY HELMET BY USE OF A RETENTION STRAP.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-157(f) reads as rewritten:

"§ **20-157. Approach of law enforcement, fire department or rescue squad vehicles or ambulances; driving over fire hose or blocking fire-fighting equipment; parking, etc., near law enforcement, fire department, or rescue squad vehicle or ambulance.**

…

(f) When an authorized emergency vehicle as described in subsection (a) of this section or any public service vehicle is parked or standing within 12 feet of a roadway and is giving a warning signal by appropriate light, the driver of every other approaching vehicle shall, as soon as it is safe and when not otherwise directed by an individual lawfully directing traffic, do one of the following:

(1) Move the vehicle into a lane that is not the lane nearest the parked or standing authorized emergency vehicle or public service vehicle and continue traveling in that lane until safely clear of the authorized emergency vehicle. This paragraph applies only if the roadway has at least two lanes for traffic proceeding in the direction of the approaching vehicle and if the approaching vehicle may change lanes safely and without interfering with any vehicular traffic.

(2) Slow the vehicle, maintaining a safe speed for traffic conditions, and operate the vehicle at a reduced speed and be prepared to stop until completely past the authorized emergency vehicle or public service vehicle. This paragraph applies only if the roadway has only one lane for traffic proceeding in the direction of the approaching vehicle or if the approaching vehicle may not change lanes safely and without interfering with any vehicular traffic.

For purposes of this section, "public service vehicle" means a vehicle that ~~has been called to the scene by a motorist or a law enforcement officer,~~ is being used to assist motorists or law enforcement officers with wrecked or disabled vehicles, and is operating an amber-colored flashing light authorized by G.S. 20-130.2. Violation of this subsection shall be negligence per se.

…."

SECTION 2. G.S. 20-158(b) reads as rewritten:

"§ **20-158. Vehicle control signs and signals.**

…

(b) Control of Vehicles at Intersections. –

(1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in

obedience thereto and yield the right-of-way to vehicles operating on the designated main-traveled or through highway. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.

(2) a. When a ~~steady-beam~~ traffic signal is emitting a steady red circular light controlling traffic approaching an intersection, an approaching vehicle facing the red light shall come to a stop and shall not enter the intersection. After coming to a complete stop and unless prohibited by an appropriate sign, that approaching vehicle may make a right turn.

b. Any vehicle that turns right under this subdivision shall yield the right-of-way to:

1. Other traffic and pedestrians using the intersection; and
2. Pedestrians who are moving towards the intersection, who are in reasonably close proximity to the intersection, and who are preparing to cross in front of the traffic that is required to stop at the red light.

c. Failure to yield to a pedestrian under this subdivision shall be an infraction, and the court may assess a penalty of not more than five hundred dollars ($500.00) and not less than one hundred dollars ($100.00).

d. The Department of Transportation shall collect data regarding the number of individuals who are found responsible for violations of sub-subdivision b. of this subdivision and the number of pedestrians who are involved in accidents at intersections because of a driver's failure to yield the right-of-way while turning right at a red light. The data shall include information regarding the number of disabled pedestrians, including individuals with visual or mobility-related disabilities, who are involved in right turn on red accidents. The Department shall report the data annually to the Joint Legislative Transportation Oversight Committee beginning January 1, 2006.

(2a) When a traffic signal is emitting a steady yellow circular light on a traffic signal controlling traffic approaching an intersection or a steady yellow arrow light on a traffic signal controlling traffic turning at an intersection, vehicles facing the yellow light are warned that the related green light is being terminated or a red light will be immediately forthcoming. When the traffic signal is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.

(3) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a stop sign.

(4) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may

proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection.

(5) When a stop sign, ~~stoplight~~traffic signal, flashing light, or other traffic-control device authorized by subsection (a) of this section requires a vehicle to stop at an intersection, the driver shall stop (i) at an appropriately marked stop line, or if none, (ii) before entering a marked crosswalk, or if none, (iii) before entering the intersection at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street.

(6) When a traffic signal is not illuminated due to a power outage or other malfunction, vehicles shall approach the intersection and proceed through the intersection as though such intersection is controlled by a stop sign on all approaches to the intersection. This subdivision shall not apply if the movement of traffic at the intersection is being directed by a law enforcement officer, another authorized person, or another type of traffic control device."

SECTION 3. G.S. 20-158(c) reads as rewritten:

"§ **20-158. Vehicle control signs and signals.**

…

(c) Control of Vehicles at Places other than Intersections. –

(1) When a stop sign has been erected or installed at a place other than an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to pedestrians and other vehicles.

(2) When a ~~stoplight~~traffic signal has been erected or installed at a place other than an intersection, and is emitting a steady red light, vehicles facing the red light shall come to a complete stop. When the ~~stoplight~~traffic signal is emitting a steady yellow light, vehicles facing the light shall be warned that a red light will be immediately forthcoming and that vehicles may not proceed through such a red light. When the ~~stoplight~~traffic signal is emitting a steady green light, vehicles may proceed subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.

(3) When a flashing red light has been erected or installed at a place other than an intersection, approaching vehicles facing the light shall stop and yield the right-of-way to pedestrians or other vehicles.

(4) When a flashing yellow light has been erected or installed at a place other than an intersection, approaching vehicles facing the light may proceed with caution, yielding the right-of-way to pedestrians and other vehicles.

(5) When a ~~stoplight~~traffic signal, stop sign, or other ~~signaling~~ traffic control device authorized by subsection (a) requires a vehicle to stop at a place other than an intersection, the driver shall stop at an appropriately marked stop line, or if none, before entering a marked crosswalk, or if none, before proceeding past the ~~signaling~~ traffic control device.

…."

SECTION 4. G.S. 20-161(e) reads as rewritten:

"§ **20-161. Stopping on highway prohibited; warning signals; removal of vehicles from public highway.**

…

(e) When any vehicle is parked or left standing upon the right-of-way of a public ~~highway~~ highway, including rest areas, for a period of ~~48~~ 24 hours or more, the owner shall be deemed to have appointed any investigating law-enforcement officer his agent for the purpose of arranging for the transportation and safe storage of such vehicle and such investigating law-enforcement officer shall be deemed a legal possessor of the motor vehicle within the meaning of that term as it appears in G.S. 44A-2(d).

…."

SECTION 5. G.S. 20-161(f) reads as rewritten:

"§ **20-161. Stopping on highway prohibited; warning signals; removal of vehicles from public highway.**

…

(f) Any investigating law enforcement officer, with the concurrence of the Department of Transportation, may immediately remove or cause to be removed from ~~a controlled-access highway~~the State highway system any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering with the regular flow of traffic or which otherwise constitutes a hazard. In the event of a motor vehicle crash involving serious personal injury or death, no removal shall occur until the investigating law enforcement officer determines that adequate information has been obtained for preparation of a crash report. No state or local law enforcement officer, Department of Transportation employee, or person or firm contracting or assisting in the removal or disposition of any such vehicle, cargo, or other personal property shall be held criminally or civilly liable for any damage or economic injury related to carrying out or enforcing the provisions of this section.

…."

SECTION 6. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-174.2. Local ordinances; pedestrians gathering, picketing, or protesting on roads or highways.**

(a) A municipality or a county may adopt an ordinance regulating the time, place, and manner of gatherings, picket lines, or protests by pedestrians that occur on State roadways and State highways.

(b) Nothing in this section shall permit a municipality or a county to impose restrictions or prohibitions on the activities of any of the following persons who are engaged in construction or maintenance, or in making traffic or engineering surveys:

(1) Licensees, employees, or contractors of the Department of Transportation.

(2) Licensees, employees, or contractors of a municipality."

SECTION 7. G.S. 20-140.4 reads as rewritten:

"§ **20-140.4. Special provisions for motorcycles and mopeds.**

(a) No person shall operate a motorcycle or moped upon a highway or public vehicular area:

(1) When the number of persons upon such motorcycle or moped, including the operator, shall exceed the number of persons which it was designed to carry.

(2) Unless the operator and all passengers thereon wear ~~safety helmets of a type approved by the Commissioner of Motor Vehicles.~~on their heads,

with a retention strap properly secured, safety helmets of a type that complies with Federal Motor Vehicle Safety Standard (FMVSS) 218.

(b) Violation of any provision of this section shall not be considered negligence per se or contributory negligence per se in any civil action.

(c) Any person convicted of violating this section shall have committed an infraction and shall be fined according to G.S. 20-135.2A(e) and (f)."

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 12:40 p.m. on the 17th day of August, 2007.

Session Law 2007-361 **House Bill 589**

AN ACT TO PROVIDE FOR CIVIL PENALTIES FOR VIOLATIONS OF THE POULTRY PRODUCTS INSPECTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-549.59 is amended by adding a new subsection to read:

"(a1) The Commissioner may assess a civil penalty of not more than five thousand dollars ($5,000) against any person who violates a provision of this Article or any rule adopted under this Article. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act becomes effective 1 October 2007 and applies to penalties assessed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 12:41 p.m. on the 17th day of August, 2007.

Session Law 2007-362 **Senate Bill 1032**

AN ACT TO IMPOSE TIME LIMITATIONS ON OVERPAYMENT RECOVERY UNDER THE PROMPT CLAIM PAYMENTS STATUTE AND TO REQUIRE THAT INSURERS OFFERING HEALTH BENEFITS PLANS PROVIDE INSURANCE IDENTIFICATION CARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-3-225(h) reads as rewritten:

"(h) ~~To the extent permitted by the contract between the insurer and the health care provider or health care facility,~~ Subject to the time lines required under this section, the insurer may recover overpayments made to the health care provider or health care facility by making demands for refunds and by offsetting future payments. Any such recoveries may also include related interest payments that were made under the requirements of this section. Not less than 30 calendar days before an insurer seeks

overpayment recovery or offsets future payments, the insurer shall give written notice to the health care provider or health care facility, which notice shall be accompanied by adequate specific information to identify the specific claim and the specific reason for the recovery. The recovery of overpayments or offsetting of future payments may be made not more than two years after the date of the original claim payment unless the insurer has reasonable belief of fraud or other intentional misconduct by the health care provider or health care facility or its agents, or the claim involves a health care provider or health care facility receiving payment for the same service from a government payor. ~~Recoveries by the insurer must be accompanied by the specific reason and adequate information to identify the specific claim. To the extent permitted by the contract between the insurer and the health care provider or health care facility, the~~ The health care provider or health care facility may recover underpayments or nonpayments by the insurer by making demands for refunds. Any such recoveries by the health care provider or health care facility of underpayments or nonpayment by the insurer may include applicable interest under this section. The period for which such recoveries may be made ~~may be specified in the contract between the insurer and health care provider or health care facility.~~may not exceed two years after the date of the original claim adjudication, unless the claim involves a health provider or health care facility receiving payment for the same service from a government payor."

SECTION 2. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-3-247. Insurance identification card.**

(a) Every insurer offering a health benefit plan as defined under G.S. 58-3-167, including the State Health Plan, shall provide the health benefit plan subscriber or members with an insurance identification card. The card shall contain at a minimum:

(1) The subscriber's name and identification number.

(2) The member's name and identification number, if applicable and different from the subscriber's name and identification number.

(3) The group number.

(4) The name of the organization issuing the policy, the name of the organization administering the policy, and the name of the network, whichever applies.

(5) The effective date of health benefits plan coverage or the date the card is issued if it is after the effective date.

(6) The address where claims are to be filed and, if applicable, the electronic claims filing payor identification number.

(7) The policyholder's obligations with regard to co-payments, if applicable, for at least the following:

a. Primary care office visit.

b. Specialty care office visit.

c. Urgent care visit.

d. Emergency room visit.

(8) The phone number or Web site address whereby the subscriber, member, or service provider, in compliance with privacy rules under the Health Insurance Portability and Accountability Act may readily obtain the following:

a. Confirmation of eligibility.

b. Benefits verification in order to estimate patient financial responsibility.

c. Prior authorization for services and procedures.
d. The list of participating providers in the network.
e. The employer group number.
f. Special mental health medical benefits under the health plan, if applicable.

(b) The insurance identification card must be designed such that if the card is photocopied or electronically scanned, the resulting image is clearly legible. The identification card must present the information in a readily identifiable manner or, alternatively, the information may be embedded on the card and available through magnetic stripe or smart card. The information may also be provided through other electronic technology."

SECTION 3. Section 1 of this act becomes effective January 1, 2008, and applies to claims made for services rendered on and after that date. Section 2 of this act becomes effective January 1, 2009, and applies to policies issued or renewed in health benefits plans on or after that date.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 12:41 p.m. on the 17th day of August, 2007.

Session Law 2007-363 **Senate Bill 1517**

AN ACT TO REQUIRE THE CONSPICUOUS DISCLOSURE OF ANY MAINTENANCE FEES CHARGED FOR GIFT CARDS AND TO PROHIBIT ISSUERS OF GIFT CARDS FROM CHARGING MAINTENANCE FEES FOR ONE YEAR AFTER THE DATE OF PURCHASE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 66 of the General Statutes is amended by adding a new section to read:

"**§ 66-67.5. Requirements for maintenance fees for gift cards.**

(a) Disclosure. – The seller or issuer of a gift card must conspicuously disclose any maintenance fee charges at the time of purchase. The disclosure must be visible on the gift card itself. No person, firm, or corporation engaged in commerce shall charge any maintenance fee on a gift card for one calendar year following the date of the purchase of the gift card.

(b) Penalty. – A seller or issuer of a gift card who violates this section commits an unfair trade practice under G.S. 75-1.1 and is subject to a civil penalty in accordance with G.S. 75-15.2.

(c) Definitions. – As used in this section, the following terms mean:

(1) Gift card. – A record evidencing a promise, made for monetary consideration, by a seller or issuer that goods or services will be provided to the owner of the record to the value shown in the record. A gift card includes a record that contains a microprocessor chip, magnetic strip, or other storage medium that is prefunded and for which the value is adjusted upon each use, a gift certificate, a stored-value card or certificate, a store card, or a prepaid long-distance telephone service that is activated by a prepaid card that required

dialing an access number or an access code in addition to dialing the phone number to which the user of the prepaid card seeks to connect.

(2) Maintenance fee. – Any fee that the owner of the gift card is subject to when the gift card is redeemed, including a service or inactivity fee.

(d) Limitation. – The provisions of this section shall not apply to gift cards that are issued by a financial institution or its operating subsidiary and that are usable at multiple unaffiliated sellers of goods or services."

SECTION 2. This act becomes effective December 1, 2007, and applies to gift cards as defined in G.S. 66-67.5, as enacted by Section 1 of this act, that are sold on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:41 p.m. on the 17th day of August, 2007.

Session Law 2007-364 **Senate Bill 509**

AN ACT TO INCREASE THE PERIOD OF TIME ALLOWED FOR REINSPECTION AFTER FAILING A MOTOR VEHICLE INSPECTION, TO WAIVE THE CIVIL PENALTY FOR FAILURE TO MEET THE EMISSIONS INSPECTION REQUIREMENT WHILE ON ACTIVE MILITARY DUTY OUTSIDE THE STATE, AND TO AMEND PENALTY PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.3(c) reads as rewritten:

"(c) Reinspection After Failure. – The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within ~~30~~60 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

SECTION 2. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only	$ 8.25	$0.85
Emissions and Safety	23.75	6.25.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall

not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within ~~30~~60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased."

SECTION 3. G.S. 20-183.8A reads as rewritten:

"§ **20-183.8A. Civil penalties against motorists for emissions ~~violations.~~violations; waiver.**

(a) Civil Penalties. – The Division shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and two hundred fifty dollars ($250.00) if the vehicle is a 1981 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this section has been paid.

(b) Waiver. – The Division must waive the civil penalty assessed under subdivision (a)(1) of this section against a person who establishes the following:

(1) The person was continuously out of the State on active military duty from the date the inspection sticker expired to the date the four-month grace period expired.

(2) No person operated the vehicle from the date the inspection sticker expired to the date the four-month grace period expired.

(3) The person obtained a current inspection sticker within 30 days after returning to the State."

SECTION 4. G.S. 20-183.8A(a), as enacted by Section 3 of this act, reads as rewritten:

"(a) Civil Penalties. – The Division ~~shall~~ must assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who ~~does any of the following:~~engages in any of the emissions violations set out in this subsection. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this subsection has been paid. The civil penalties and violations are as follows:

(1) ~~Fails~~ Fifty dollars ($50.00) for failure to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) ~~Instructs or allows~~ Two hundred fifty dollars ($250.00) for instructing or allowing a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) ~~Incorrectly states~~ Two hundred fifty dollars ($250.00) for incorrectly stating the vehicle's county of registration ~~of the vehicle~~ to avoid having an emissions inspection of the vehicle.

~~The amount of penalty is one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and two hundred fifty dollars ($250.00) if the vehicle is a 1981 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this section has been paid.~~"

SECTION 5. Sections 1 and 2 of this act become effective January 1, 2009. Section 4 of this act becomes effective July 1, 2008, and applies to civil penalties assessed for violations committed on or after that date. The remainder of this act is effective when it becomes law, and applies to civil penalties assessed for violations committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:46 p.m. on the 17th day of August, 2007.

Session Law 2007-365 **Senate Bill 1245**

AN ACT AMENDING THE LAWS RELATED TO RETAINAGE PAYMENTS ON PUBLIC CONSTRUCTION CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-134.1 reads as rewritten:

"§ **143-134.1. Interest on final payments due to prime contractors; payments to subcontractors.**

(a) On all public construction contracts which are let by a board or governing body of the State government or any political subdivision thereof, except contracts let by the Department of Transportation pursuant to G.S. 136-28.1, the balance due prime contractors shall be paid in full within 45 days after respective prime contracts of the project have been accepted by the owner, certified by the architect, engineer or designer to be completed in accordance with terms of the plans and specifications, or occupied by the owner and used for the purpose for which the project was constructed, whichever occurs first. ~~Provided, however, that whenever~~ However, when the architect or consulting engineer in charge of the project determines that delay in completion of the project in accordance with terms of the plans and specifications is the fault of the contractor, the project may be occupied and used for the purposes for which it was constructed without payment of any interest on amounts withheld past the 45 day limit. No payment shall be delayed because of the failure of another prime contractor on ~~such~~ the project to complete his contract. Should final payment to any prime contractor beyond the date ~~such~~ the contracts have been certified to be completed by the designer or architect, accepted by the owner, or occupied by the owner and used for the purposes for which the project was constructed, be delayed by more than 45 days, ~~said~~ the prime contractor shall be paid interest, beginning on the 46th day, at the rate of one percent (1%) per month or fraction thereof unless a lower rate is agreed upon on ~~such~~ the unpaid balance as may be due. In addition to the above final payment provisions, periodic

payments due a prime contractor during construction shall be paid in accordance with the provisions of this section and the payment provisions of the contract documents that do not conflict with this section, or ~~said~~ the prime contractor shall be paid interest on any ~~such~~ unpaid amount at the rate stipulated above for delayed final payments. ~~Such~~ The interest shall begin on the date the payment is due and continue until the date on which payment is made. ~~Such~~ The due date may be established by the terms of the contract. Funds for payment of ~~such~~ the interest on state-owned projects shall be obtained from the current budget of the owning department, institution, or agency. Where a conditional acceptance of a contract exists, and where the owner is retaining a reasonable sum pending correction of ~~such~~ the conditions, interest on ~~such~~ the reasonable sum shall not apply.

(b) Within seven days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. ~~Should~~ If any periodic or final payment to the subcontractor ~~be~~ is delayed by more than seven days after receipt of periodic or final payment by the prime contractor, the prime contractor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on ~~such~~ the unpaid balance as may be due.

(b1) No retainage on periodic or final payments made by the owner or prime contractor shall be allowed on public construction contracts in which the total project costs are less than one hundred thousand dollars ($100,000). Retainage on periodic or final payments on public construction contracts in which the total project costs are equal to or greater than one hundred thousand dollars ($100,000) is allowed as follows:

(1) The owner shall not retain more than five percent (5%) of any periodic payment due a prime contractor.

(2) When the project is fifty percent (50%) complete, the owner, with written consent of the surety, shall not retain any further retainage from periodic payments due the contractor if the contractor continues to perform satisfactorily and any nonconforming work identified in writing prior to that time by the architect, engineer, or owner has been corrected by the contractor and accepted by the architect, engineer, or owner. If the owner determines the contractor's performance is unsatisfactory, the owner may reinstate retainage for each subsequent periodic payment application as authorized in this subsection up to the maximum amount of five percent (5%). The project shall be deemed fifty percent (50%) complete when the contractor's gross project invoices, excluding the value of materials stored off-site, equal or exceed fifty percent (50%) of the value of the contract, except the value of materials stored on-site shall not exceed twenty percent (20%) of the contractor's gross project invoices for the purpose of determining whether the project is fifty percent (50%) complete.

(3) A subcontract on a contract governed by this section may include a provision for the retainage on periodic payments made by the prime contractor to the subcontractor. However, the percentage of the payment retained: (i) shall be paid to the subcontractor under the same terms and conditions as provided in subdivision (2) of this subsection and (ii) subject to subsection (b3) of this section, shall not exceed the percentage of retainage on payments made by the owner to the prime contractor. Subject to subsection (b3) of this section, any percentage of

retainage on payments made by the prime contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime contractor shall be subject to interest to be paid by the prime contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.

(4) Within 60 days after the submission of a pay request and one of the following occurs, as specified in the contract documents, the owner with written consent of the surety shall release to the contractor all retainage on payments held by the owner: (i) the owner receives a certificate of substantial completion from the architect, engineer, or designer in charge of the project; or (ii) the owner receives beneficial occupancy or use of the project. However, the owner may retain sufficient funds to secure completion of the project or corrections on any work. If the owner retains funds, the amount retained shall not exceed two and one-half times the estimated value of the work to be completed or corrected. Any reduction in the amount of the retainage on payments shall be with the consent of the contractor's surety.

(5) The existence of any third-party claims against the contractor or any additive change orders to the construction contract shall not be a basis for delaying the release of any retainage on payments.

(b2) Full payment, less authorized deductions, shall also be made for those trades that have reached one hundred percent (100%) completion of their contract by or before the project is fifty percent (50%) complete if the contractor has performed satisfactorily. However, payment to the early finishing trades is contingent upon the owner's receipt of an approval or certification from the architect of record or applicable engineer that the work performed by the subcontractor is acceptable and in accordance with the contract documents. At that time, the owner shall reduce the retainage for such trades to five-tenths percent (0.5%) of the contract. Payments under this subsection shall be made no later than 60 days following receipt of the subcontractor's request or immediately upon receipt of the surety's consent, whichever occurs later. Early finishing trades under this subsection shall include structural steel, piling, caisson, and demolition. The early finishing trades for which line-item release of retained funds is required shall not be construed to prevent an owner or an owner's representative from identifying any other trades not listed in this subsection that are also allowed line-item release of retained funds. Should the owner or owner's representative identify any other trades to be afforded line-item release of retainage, the trade shall be listed in the original bid documents. Each bid document shall list the inspections required by the owner before accepting the work, and any financial information required by the owner to release payment to the trades, except the failure of the bid documents to contain this information shall not obligate the owner to release the retainage if it has not received the required certification from the architect of record or applicable engineer.

(b3) Notwithstanding subdivisions (2) and (3) of subsection (b1) of this section, and subsection (b2) of this section, following fifty percent (50%) completion of the project, the owner shall be authorized to withhold additional retainage from a subsequent periodic payment, not to exceed five percent (5%) as set forth in subdivision (1) of subsection (b1) of this section, in order to allow the owner to retain two and one-half percent (2.5%) total retainage through the completion of the project. In the event that the owner elects to withhold additional retainage on any periodic payment subsequent to release of retainage pursuant to subsection (b2) of this section, the general

contractor may also withhold from the subcontractors remaining on the project sufficient retainage to offset the additional retainage held by the owner, notwithstanding the actual percentage of retainage withheld by the owner of the project as a whole.

(b4) Neither the owner's nor contractor's release of retainage on payments as part of a payment in full on a line-item of work under subsection (b2) of this section shall affect any applicable warranties on work done by the contractor or subcontractor, and the warranties shall not begin to run any earlier than either the owner's receipt of a certificate of substantial completion from the architect, engineer, or designer in charge of the project or the owner receives beneficial occupancy.

(b5) The State or any political subdivision of the State may allow contractors to bid on bonded projects with and without retainage on payments.

(b6) Nothing in subsections (b1), (b2), (b3), and (b4) of this section shall operate to prevent any agency or any political subdivision of the State from complying with the requirements of a federal contract or grant when the requirements of the federal contract or grant conflict with subsections (b1), (b2), (b3), or (b4) of this section. Each bid document must specify when federal preemption of this section shall apply.

~~(c) The percentage of retainage on payments made by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the owner to the prime contractor. Any percentage of retainage on payments made by the prime contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime contractor shall be subject to interest to be paid by the prime contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.~~

(d) Nothing in this section shall prevent the prime contractor at the time of application and certification to the owner from withholding application and certification to the owner for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment, and materials; damage to prime contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by the owner.

(e) Nothing in this section shall prevent the owner from withholding payment to the contractor in addition to the amounts authorized by this section for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the owner or reasonable evidence that a third-party claim will be filed."

SECTION 2. This act becomes effective January 1, 2008, and applies to contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 12:50 p.m. on the 17th day of August, 2007.

Session Law 2007-366 **Senate Bill 744**

AN ACT TO REMOVE THE TEN PERCENT CEILING ON THE EXPENSE RESERVE FUND OF THE NORTH CAROLINA REAL ESTATE COMMISSION UNDER THE REAL ESTATE LICENSING LAWS AND TO ALLOW THE REAL ESTATE COMMISSION TO SERVE NOTICE OF HEARING BY FIRST-CLASS

MAIL ON APPLICANTS REQUESTING HEARINGS REGARDING THE APPLICANTS' CHARACTER OR FITNESS FOR LICENSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93A-3(b) reads as rewritten:

"(b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall receive as compensation for each day spent on work for the Commission a per diem in an amount established by the Commission by rule, and mileage reimbursement for transportation by privately owned automobile at the business standard mileage rate set by the Internal Revenue Service per mile of travel along with actual cost of tolls paid. The total expense of the administration of this Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission or the compensation or expenses of any office thereof or any employee shall ever be paid or payable out of the treasury of the State of North Carolina; and neither the Commission nor any officer or employee thereof shall have any power or authority to make or incur any expense, debt or other financial obligation binding upon the State of North Carolina. After all expenses of operation, the Commission may set aside an expense reserve each year. ~~year not to exceed ten percent (10%) of the previous year's gross income; then any surplus shall go to the general fund of the State of North Carolina.~~ The Commission may deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may approve, in any bank, savings and loan association, or trust company. Moneys also may be invested in the same classes of securities referenced in G.S. 159-30(c)."

SECTION 2. G.S. 93A-4(b) reads as rewritten:

"(b) Except as otherwise provided in this Chapter, any person who submits an application to the Commission in proper manner for a license as real estate broker shall be required to take an examination. The examination may be administered orally, by computer, or by any other method the Commission deems appropriate. The Commission may require the applicant to pay the Commission or a provider contracted by the Commission the actual cost of the examination and its administration. The cost of the examination and its administration shall be in addition to any other fees the applicant is required to pay under subsection (a) of this section. The examination shall determine the applicant's qualifications with due regard to the paramount interests of the public as to the applicant's competency. A person who fails the license examination shall be entitled to know the result and score. A person who passes the exam shall be notified only that the person passed the examination. Whether a person passed or failed the examination shall be a matter of public record; however, the scores for license examinations shall not be considered public records. Nothing in this subsection shall limit the rights granted to any person under G.S. 93B-8.

An applicant for licensure under this Chapter shall satisfy the Commission that he or she possesses the competency, honesty, truthfulness, integrity, and general moral character necessary to protect the public interest and promote public confidence in the real estate brokerage business. The Commission may investigate the moral character of each applicant for licensure and require an applicant to provide the Commission with a criminal record report. All applicants shall obtain criminal record reports from one or more reporting services designated by the Commission to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of these reports. If the results of any required competency examination and investigation of the applicant's moral character shall be satisfactory to the Commission, then the

Commission shall issue to the applicant a license, authorizing the applicant to act as a real estate broker in the State of North Carolina, upon the payment of privilege taxes now required by law or that may hereafter be required by law.

Notwithstanding G.S. 150B-38(c), in a contested case commenced upon the request of a party applying for licensure regarding the question of the moral character or fitness of the applicant, if notice has been reasonably attempted, but cannot be given to the applicant personally or by certified mail in accordance with G.S. 150B-38(c), the notice of hearing shall be deemed given to the applicant when a copy of the notice is deposited in an official depository of the United States Postal Service addressed to the applicant at the latest mailing address provided by the applicant to the Commission or by any other means reasonably designed to achieve actual notice to the applicant."

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

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 12:51 p.m. on the 17th day of August, 2007.

Session Law 2007-367 **Senate Bill 1065**

AN ACT AUTHORIZING COMMUNITY COLLEGES TO IMPLEMENT A TUITION SURCHARGE AND TO USE ENDOWED SCHOLARSHIP FUNDS TO OFFSET THE COST OF A TUITION SURCHARGE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-39.1. Tuition surcharge.**

(a) Notwithstanding the provisions of G.S. 115D-39.1(a), a community college may, with the approval of the State Board of Community Colleges:

(1) Implement a tuition surcharge of up to thirty-three and one-third percent (33 1/3%) of the statewide tuition rate to fund a new instructional program that is necessary to attract industry to the area, and

(2) Use the proceeds of an endowed scholarship, consistent with the terms of the endowment, to offset the cost of the tuition charge.

(b) All students enrolled in the new program, except for students for whom tuition and registration are waived by law or regulation, shall be charged the tuition surcharge. The funds collected from the endowment shall be deposited into an unrestricted institutional fund account at the community college.

(c) This section applies only to an endowed scholarship in excess of five million dollars ($5,000,000).

(d) The State Board shall adopt rules to implement this section."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 12:52 p.m. on the 17th day of August, 2007.

Session Law 2007-368 **Senate Bill 1240**

AN ACT TO ENSURE THAT ALL BREAD SOLD AT A BAKERY THRIFT STORE IS TAXED AT THE SAME SALES TAX RATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(27a) Bread, rolls, and buns sold at a bakery thrift store. A 'bakery thrift store' is a retail outlet of a bakery that sells at wholesale over ninety percent (90%) of the items it makes and sells at the retail outlet day-old bread, rolls, and buns returned to it by retailers that acquired these items from the bakery."

SECTION 2. G.S. 105-467(a) is amended by adding a new subdivision to read:

"(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a)."

SECTION 3. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, reads as rewritten:

"Sec. 4. Scope of Sales Tax. The sales tax which may be imposed under this division after the holding of a special election is limited to a tax at the rate of one per cent (1%) ~~of:~~ of the transactions listed in this section. The taxes authorized by this division do not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically listed in this section. ~~(1) the~~

(1) The sale price of those articles of tangible personal property now subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and ~~(4b);(2) the~~

(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(2); (3) the~~ G.S. 105-164.4(a)(2).

(3) The gross receipts derived from the rental of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar public accommodations now subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(3); (4) the~~ G.S. 105-164.4(a)(3).

(4) The gross receipts derived from services rendered by laundries, dry cleaners, cleaning plants and similar type businesses now subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(4); (5)~~ G.S. 106-164.4(a)(4).

(5) The sales price of food and other items that are not otherwise exempt from tax pursuant to G.S.105-164.13 but are exempt from the State sales and use tax pursuant to G.S.105-164.13B. ~~The taxes authorized by this division do not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically listed in this section; and (6)~~

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).

(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d)."

SECTION 4. This act becomes effective October 1, 2007, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 9:11 a.m. on the 19th day of August, 2007.

Session Law 2007-369 **Senate Bill 1218**

AN ACT TO REQUIRE ALL CANDIDATES TO DISCLOSE FELONY CONVICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-106 is amended by adding a new subsection to read:

"(a1) Disclosure of Felony Conviction. – At the same time the candidate files notice of candidacy under this section, the candidate shall file with the same office a statement answering the following question: "Have you ever been convicted of a felony?" The State Board of Elections shall adapt the notice of candidacy form to include the statement required by this subsection. The form shall make clear that a felony conviction need not be disclosed if the conviction was dismissed as a result of reversal on appeal or resulted in a pardon of innocence or expungement. The form shall require a candidate who answers "yes" to the question to provide the name of the offense, the date of conviction, the date of the restoration of citizenship rights, and the county and state of conviction. The form shall require the candidate to swear or affirm that the statements on the form are true, correct, and complete to the best of the candidate's knowledge or belief. The form shall be available as a public record in the office of the board of elections where the candidate files notice of candidacy and shall contain an explanation that a prior felony conviction does not preclude holding elective office if the candidate's rights of citizenship have been restored. This subsection shall also apply to individuals who become candidates for election by the people under G.S. 163-114, 163-122, 163-123, 163-98, 115C-37, 130A-50, Article 24 of Chapter 163 of the General Statutes, or any other statute or local act. Those individuals shall complete the question at the time the documents are filed initiating their candidacy. The State Board of Elections shall adapt those documents to include the statement required by this subsection. If an individual does not complete the statement required by this subsection, the board of elections accepting the filing shall notify the individual of the omission, and the individual shall have 48 hours after notice to complete the statement. If the individual does not complete the statement at the time of filing or within 48 hours after the notice, the individual's filing is not complete, the individual's name shall not appear on the ballot as a candidate, and votes for the individual shall not be counted. It is a Class I felony to complete the form knowing that information as to felony conviction or restoration of citizenship is untrue. This subsection shall not apply to candidates required by G.S. 138A-22(d) to file Statements of Economic Interest."

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 9:14 a.m. on the 19th day of August, 2007.

Session Law 2007-370 **Senate Bill 1211**

AN ACT TO REQUIRE FINGERPRINTING OF ANY PERSON ARRESTED FOR ANY OFFENSES INVOLVING IMPAIRED DRIVING OR FOR DRIVING WHILE LICENSE REVOKED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-502 reads as rewritten:

"§ **15A-502. Photographs and fingerprints.**

(a) A person charged with the commission of a felony or a misdemeanor may be photographed and his fingerprints may be taken for law-enforcement records only when he has been:

(1) Arrested or committed to a detention facility, or

(2) Committed to imprisonment upon conviction of a crime, or

(3) Convicted of a felony.

(a1) It shall be the duty of the arresting law-enforcement agency to cause a person charged with the commission of a felony to be fingerprinted and to forward those fingerprints to the State Bureau of Investigation.

(a2) If the person cannot be identified by a valid form of identification, it shall be the duty of the arresting law-enforcement agency to cause a person charged with the commission of:

(1) Any offense involving impaired driving, as defined in G.S. 20-4.01(24a), or

(2) Driving while license revoked if the revocation is for an Impaired Driving License Revocation as defined in G.S. 20-28.2

to be fingerprinted and photographed.

(b) This section does not authorize the taking of photographs or fingerprints when the offense charged is a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes, "Motor Vehicles."

(c) This section does not authorize the taking of photographs or fingerprints of a juvenile alleged to be delinquent except under Article 21 of Chapter 7B of the General Statutes.

(d) This section does not prevent the taking of photographs, moving pictures, video or sound recordings, fingerprints, or the like to show a condition of intoxication or for other evidentiary use.

(e) Fingerprints or photographs taken pursuant to ~~subsection (a)~~ subsection (a), (a1), or (a2) of this section may be forwarded to the State Bureau of Investigation, the Federal Bureau of Investigation, or other law-enforcement agencies."

SECTION 2. This act becomes effective October 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 9:17 a.m. on the 19th day of August, 2007.

Session Law 2007-371 **Senate Bill 1152**

AN ACT TO REQUIRE COUNTIES AND CITIES TO PAY INTEREST ON ILLEGALLY EXACTED TAXES, FEES, OR MONETARY CONTRIBUTIONS

FOR DEVELOPMENT THAT ARE NOT SPECIFICALLY AUTHORIZED BY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-324 reads as rewritten:

"§ **153A-324. Enforcement of ordinances.**

(a) In addition to the enforcement provisions of this Article and subject to the provisions of the ordinance, any ordinance adopted pursuant to this Article, to Chapter 157A, or to Chapter 160A, Article 19 may be enforced by any remedy provided by G.S. 153A-123.

(b) If the county is found to have illegally exacted a tax, fee, or monetary contribution for development or a development permit not specifically authorized by law, the county shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum."

SECTION 2. G.S. 160A-363 is amended by adding a new subdivision to read:

"(e) If the city is found to have illegally exacted a tax, fee, or monetary contribution for development or a development permit not specifically authorized by law, the city shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum."

SECTION 3. This act is effective when it becomes law, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 6:00 p.m. on the 19th day of August, 2007.

Session Law 2007-372 **Senate Bill 1023**

AN ACT TO CLARIFY THE STATUS OF LOCAL ENTITY EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT, TO MODIFY THE PUBLIC RECORDS LAWS APPLICABLE TO THE UNIVERSITY OF NORTH CAROLINA AND THE NORTH CAROLINA COMMUNITY COLLEGES, TO PROTECT THE PRIVACY OF APPLICANTS WHO ARE NOT ADMITTED OR WHO DO NOT ENROLL, AND TO PROVIDE THAT CERTAIN AUDIT RECORDS ARE PUBLIC DOCUMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-1.1 reads as rewritten:

"§ **126-1.1. Career State employee defined.**

For the purposes of this Chapter, unless the context clearly indicates otherwise, "career State employee" means a State employee or an employee of a local entity who is covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

(1) Is in a permanent position appointment; and

(2) Has been continuously employed by the State of North Carolina or a local entity as provided in G.S. 126-5(a)(2) in a position subject to the State Personnel Act for the immediate 24 preceding months."

SECTION 2. G.S. 132-1.1 is amended by adding a new subsection to read:

"(f) Personally Identifiable Admissions Information. – Records maintained by The University of North Carolina or any constituent institution, or by the Community Colleges System Office or any community college, which contain personally identifiable information from or about an applicant for admission to one or more constituent institutions or to one or more community colleges shall be confidential and shall not be subject to public disclosure pursuant to G.S. 132-6(a). Notwithstanding the preceding sentence, any letter of recommendation or record containing a communication from an elected official to The University of North Carolina, any of its constituent institutions, or to a community college, concerning an applicant for admission who has not enrolled as a student shall be considered a public record subject to disclosure pursuant to G.S. 132-6(a). Nothing in this subsection is intended to limit the disclosure of public records that do not contain personally identifiable information, including aggregated data, guidelines, instructions, summaries, or reports that do not contain personally identifiable information or from which it is feasible to redact any personally identifiable information that the record contains. As used in this subsection, the term "community college" is as defined in G.S. 115D-2(2), the term "constituent institution" is as defined in G.S. 116-2(4), and the term "Community Colleges System Office" is as defined in G.S. 115D-3."

SECTION 3. G.S. 116-40.7(c) reads as rewritten:

"(c) An internal auditor shall maintain, for 10 years, a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the internal auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of that auditor's office shall be retained in accordance with Chapter 132 of the General Statutes. To promote cooperation and avoid unnecessary duplication of audit effort, audit work papers related to issued audit reports shall be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal governments in connection with some matter officially before them. Except as otherwise provided in this subsection, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential and shall not be open to examination or inspection under ~~G.S. 132-6.~~ G.S. 132-6 until completion of the audit report that is based on the working paper. Audit reports and the working papers on which they are based shall be public records subject to examination and inspection to the extent that they do not include information that, under State ~~laws,~~ law, is confidential and exempt from Chapter 132 of the General Statutes or would compromise the security systems of The University of North Carolina. At the time that audit working papers are made available for public examination or inspection, the custodian of the audit working paper may redact the name and personally identifying information of a person who has initiated an allegation of (i) a violation of State or federal law or rule or regulation; (ii) fraud; (iii) misappropriation of State resources; (iv) substantial and specific danger to the public health and safety; or (v) gross mismanagement, gross waste of monies, or gross abuse of authority, if that person requests that the person's name and personally identifying information be kept confidential."

SECTION 4. This act is effective when it becomes law, and Sections 2 and 3 apply to public records existing before, on, or after that date.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 6:08 p.m. on the 19th day of August, 2007.

Session Law 2007-373 **Senate Bill 1270**

AN ACT TO AMEND VARIOUS LARCENY STATUTES AND TO CREATE THE CRIMINAL OFFENSES OF ORGANIZED RETAIL THEFT.

The General Assembly of North Carolina enacts:

SECTION 1. G. S. 14-71 reads as rewritten:

"§ **14-71. Receiving stolen ~~goods.~~goods; receiving or possessing goods represented as stolen.**

(a) If any person shall receive any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, he shall be guilty of a Class H felony, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing, shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such receiver may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county where he actually received such chattel, money, security, or other thing; and such receiver shall be punished as one convicted of larceny.

(b) If a person knowingly receives or possesses property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency as stolen, the person is guilty of a Class H felony and may be indicted, tried, and punished in any county in which the person received or possessed the property."

SECTION 2. Article 16 of Chapter 14 of the General Statutes is amended is by adding a new section to read:

"**§ 14-72.11. Larceny from a merchant.**

A person is guilty of a Class H felony if the person commits larceny against a merchant under any of the following circumstances:

(1) If the property taken has a value of more than two hundred dollars ($200.00), by using an exit door erected and maintained to comply with the requirements of 29 C.F.R. § 1910 Subpart E, upon which door has been placed a notice, sign, or poster providing information about the felony offense and punishment provided under this subsection, to exit the premises of a store.

(2) By removing, destroying, or deactivating a component of an antishoplifting or inventory control device to prevent the activation of any antishoplifting or inventory control device.

(3) By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.

(4) When the property is infant formula valued in excess of one hundred dollars ($100.00). As used in this subsection, the term "infant formula," has the same meaning as found in 21 U.S.C. § 321(z)."

SECTION 3. Chapter 14 of the General Statutes is amended by adding a new article to read:

"Article 16A.
"Organized Retail Theft.

"**§ 14-86.5. Definitions.**

The following definitions apply in this Article:

(1) "Retail property." – Any new article, product, commodity, item, or component intended to be sold in retail commerce.

(2) "Retail property fence." – A person or business that buys retail property knowing or believing that retail property is stolen.

(3) "Theft." – To take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.

(4) "Value." – The retail value of an item as advertised by the affected retail establishment, to include all applicable taxes.

"**§ 14-86.6. Organized retail theft.**

(a) A person is guilty of a Class H felony if the person:

(1) Conspires with another person to commit theft of retail property from a retail establishment, with a value exceeding one thousand five hundred dollars ($1,500) aggregated over a 90-day period, with the intent to sell that retail property for monetary or other gain, and who takes or causes that retail property to be placed in the control of a retail property fence or other person in exchange for consideration.

(2) Receives or possesses any retail property that has been taken or stolen in violation of subdivision (1) of this subsection while knowing or having reasonable grounds to believe the property is stolen.

(b) Any interest a person has acquired or maintained in violation of this section shall be subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504."

SECTION 4. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 6:10 p.m. on the 19th day of August, 2007.

Session Law 2007-374 **Senate Bill 1058**

AN ACT TO PROHIBIT THE FRAUDULENT OBTAINING, SELLING, OR SOLICITING OF TELEPHONE RECORDS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 19D.
"Telephone Records Privacy Protection Act.

"**§ 14-113.30. Definitions.**

The following definitions apply in this Article:

(1) Caller identification record. – A record collected and retained by or on behalf of a customer utilizing caller identification or similar technology that is delivered electronically to the recipient of a

telephone call simultaneously with the reception of the telephone call and that indicates the telephone number from which the telephone call was initiated or similar information regarding the telephone call.

(2) Customer. – A person or the legal guardian of a person or a representative of a business to whom a telephone service provider provides telephone service to a number subscribed or listed in the name of the person or business.

(3) Person. – An individual, business association, partnership, limited partnership, corporation, limited liability company, or other legal entity.

(4) Telephone record. – A record in written, electronic, or oral form, except a caller identification record, Directory Assistance information, and subscriber list information, that is created by a telephone service provider and that contains any of the following information with respect to a customer:

a. Telephone numbers that have been dialed by the customer.

b. Telephone numbers that pertain to calls made to the customer.

c. The time when calls were made by the customer or to the customer.

d. The duration of calls made by the customer or to the customer.

e. The charges applied to calls, if any.

(5) Telephone service. – The conveyance of two-way communication in analog, digital, or other form by any medium, including wire, cable, fiber optics, cellular, broadband personal communications services, or other wireless technologies, satellite, microwave, or at any frequency over any part of the electromagnetic spectrum. The term also includes the conveyance of voice communication over the Internet and telephone relay service.

(6) Telephone service provider. – A person who provides telephone service to a customer without regard to the form of technology used, including traditional wire-line or cable communications service; cellular, broadband PCS, or other wireless communications service; microwave, satellite, or other terrestrial communications service; or voice over Internet communications service.

"**§ 14-113.31. Prohibition of falsely obtaining, selling, or soliciting telephone records.**

(a) No person shall obtain, or attempt to obtain, by any means, whether electronically, in writing, or in oral form, with or without consideration, a telephone record that pertains to a customer who is a resident of this State without the customer's consent by doing any of the following:

(1) Making a false statement or representation to an agent, representative, or employee of a telephone service provider.

(2) Making a false statement or representation to a customer of a telephone service provider.

(3) Knowingly providing to a telephone service provider a document that is fraudulent, that has been lost or stolen, or that has been obtained by fraud, or that contains a false, fictitious, or fraudulent statement or representation.

(4) Accessing customer accounts of a telephone service provider via the Internet without prior authorization from the customer to whom the telephone records relate.

(b) No person shall knowingly purchase, receive, or solicit another to purchase or receive a telephone record that pertains to a customer without the prior authorization of that customer, or if the purchaser or receiver knows or has reason to know that the record has been obtained fraudulently.

(c) No person shall sell or offer to sell a telephone record that was obtained without the customer's prior consent, or if the person knows or has reason to know that the telephone record was obtained fraudulently.

"**§ 14-113.32. Exceptions.**

(a) The provisions of G.S. 14-113.31 shall not apply to any of the following:

(1) Any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency in connection with the official duties of the law enforcement agency.

(2) A disclosure by a telephone service provider if the telephone service provider reasonably believes the disclosure is necessary to: (i) provide telephone service to a customer, including sharing telephone records with one of the provider's affiliates or (ii) protect an individual or service provider from fraudulent, abusive, or unlawful use of telephone service or a telephone record.

(3) A disclosure by a telephone service provider to the National Center for Missing and Exploited Children.

(4) A disclosure by a telephone service provider that is authorized by State or federal law or regulation.

(5) A disclosure by a telephone service provider to a governmental entity if the provider reasonably believes there is an emergency involving immediate danger of death or serious physical injury.

(6) Testing of a telephone service provider's security procedures or systems for maintaining the confidentiality of customers' telephone records.

(b) Nothing in this Article shall be construed to expand the obligation or duty of a telephone service provider to maintain the confidentiality of telephone records beyond the requirements of this Article or federal law or regulation. Any telephone service provider or agent, employee, or representative of a telephone service provider who reasonably and in good faith discloses telephone records shall not be criminally or civilly liable if the disclosure is later determined to be in violation of this Article.

"**§ 14-113.33. Punishment; liability.**

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who violates this Article is guilty of a Class H felony. In any criminal proceeding brought under this Article, the crime is considered to be committed in the county where the customer resides, where the defendant resides, where any part of the offense took place, or in any other county instrumental to the completion of the offense, regardless of whether the defendant was ever actually present in that county.

(b) A violation of G.S. 14-331.31 is a violation of G.S. 75-1.1, except that a customer whose telephone records were obtained, sold, or solicited in violation of this Article shall be entitled to damages pursuant to G.S. 75-16, or one thousand dollars ($1,000), whichever is greater."

SECTION 2. This act becomes effective December 1, 2007, and applies to acts and offenses committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 6:11 p.m. on the 19th day of August, 2007.

Session Law 2007-375 **Senate Bill 8**

AN ACT TO INCREASE THE "SAFE ZONES" NEAR CHILD CARE CENTERS AND SCHOOL GROUNDS REGARDING ILLEGAL DRUG SALES FROM THREE HUNDRED FEET TO ONE THOUSAND FEET, AND TO EXPAND THE "SAFE ZONE" FOR PUBLIC PARKS TO INCLUDE ALL PUBLIC PARKS, NOT JUST THOSE WITH PLAYGROUNDS, AND TO INCREASE THE DISTANCE OF THOSE SAFE ZONES TO ONE THOUSAND FEET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-95(e) reads as rewritten:

"(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

...

(8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for a child care center, or for an elementary or secondary school or within ~~300~~1,000 feet of the boundary of real property used for a child care center, or for an elementary or secondary school shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1). For purposes of this subdivision, a child care center is as defined in G.S. 110-86(3)a., and that is licensed by the Secretary of the Department of Health and Human Services.

(9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal institution or local confinement facility shall be guilty of a Class H felony.

(10) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property that is a ~~playground in a~~ public park or within ~~300~~1,000 feet of the boundary of real property that is a ~~playground in a~~ public park shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1). ~~For purposes of this subdivision the term "playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation open to the public, and with any portion thereof containing three or more separate apparatuses intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.~~"

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 6:12 p.m. on the 19th day of August, 2007.

Session Law 2007-376 **Senate Bill 1115**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ESTABLISH A PILOT PROGRAM FOR LATERAL ENTRY TEACHERS.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall adopt policies and procedures to pilot innovative programs for lateral entry teachers. A local school administrative unit, community college, or college or university may be granted approval by the State Board of Education to pilot an innovative program for lateral entry teachers. The Department of Public Instruction shall issue a license to all individuals who complete these approved programs who are recommended by the local school administrative unit, community college, or college or university and who otherwise meet licensure requirements. The policies and procedures shall be adopted no later than December 15, 2007.

If a lateral entry teacher leaves a unit with an approved innovative program before completing the program and is hired to teach in another local school administrative unit in the State, that teacher shall receive credit for any work completed as part of the program.

SECTION 2. The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the effectiveness of the pilot innovative programs by October 15, 2010. The reports shall include any recommendations regarding the continuation, expansion, or elimination of the pilot program.

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 6:14 p.m. on the 19th day of August, 2007.

Session Law 2007-377 **Senate Bill 1009**

AN ACT TO CLARIFY THAT A WITNESS'S ORAL STATEMENTS TO A PROSECUTING ATTORNEY DO NOT NEED TO BE RECORDED UNLESS THE STATEMENT CONTAINS SIGNIFICANTLY NEW OR DIFFERENT INFORMATION FROM A PRIOR STATEMENT AND TO PROVIDE WHAT TYPE OF WITNESS IDENTIFICATION INFORMATION MUST BE DISCLOSED TO THE DEFENDANT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-903(a)(1) reads as rewritten:

"§ **15A-903. Disclosure of evidence by the State – Information subject to disclosure.**

(a) Upon motion of the defendant, the court must order the State to:

(1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. Oral statements shall be in written or recorded ~~form.~~ form, except that oral statements made by a witness to a prosecuting attorney outside the presence of a law enforcement officer or investigatorial assistant shall not be required to be in written or recorded form unless there is significantly new or different information in the oral statement from a prior statement made by the witness. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein."

SECTION 2. G.S. 15A-904 reads as rewritten:

"§ **15A-904. Disclosure by the State – Certain information not subject to disclosure.**

(a) The State is not required to disclose written materials drafted by the prosecuting attorney or the prosecuting attorney's legal staff for their own use at trial, including witness examinations, voir dire questions, opening statements, and closing arguments. Disclosure is also not required of legal research or of records, correspondence, reports, memoranda, or trial preparation interview notes prepared by the prosecuting attorney or by members of the prosecuting attorney's legal staff to the extent they contain the opinions, theories, strategies, or conclusions of the prosecuting attorney or the prosecuting attorney's legal staff.

(al) The State is not required to disclose the identity of a confidential informant unless the disclosure is otherwise required by law.

(a2) The State is not required to provide any personal identifying information of a witness beyond that witness's name, address, date of birth, and published phone number, unless the court determines upon motion of the defendant that such additional information is necessary to accurately identify and locate the witness.

(b) Nothing in this section prohibits the State from making voluntary disclosures in the interest of justice nor prohibits a court from finding that the protections of this section have been waived.

(c) This section shall have no effect on the State's duty to comply with federal or State constitutional disclosure requirements."

SECTION 3. This act is effective when it becomes law and applies to pending cases.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 6:41 p.m. on the 19th day of August, 2007.

Session Law 2007-378 **Senate Bill 914**

AN ACT TO GIVE TEACHERS CREDIT FOR THE EXCESS PERSONAL LEAVE TIME THAT THEY EARN AND TO ENSURE THAT TEACHERS CAN TAKE PERSONAL LEAVE WITH FIVE DAYS' NOTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-302.1(d) reads as rewritten:

"(d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated ~~to a maximum of five days.~~ without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate ~~supervisor, but~~ supervisor. A teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. ~~Unless approved by the principal, a teacher shall not take personal leave on the first day the teacher is required to report for the school year, on required teacher workdays, or on the day before or the day after holidays or scheduled vacation days.~~ Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. Teachers using personal leave receive full salary less the required substitute deduction."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 6:46 p.m. on the 19th day of August, 2007.

Session Law 2007-379 **Senate Bill 1090**

AN ACT AMENDING CERTAIN PROVISIONS TO ALLOW FOR PROVISIONAL LICENSURE OF CLINICAL SOCIAL WORKERS UNDER THE LAWS REGULATING THE PRACTICE OF SOCIAL WORK.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90B-3 is amended by adding a new subdivision to read:

"§ **90B-3. Definitions.**

The following definitions apply in this Chapter:

…

(7a) Provisional Licensed Clinical Social Worker. – A person issued a provisional license to provide clinical social work services pursuant to G.S. 90B-7(f).

…."

SECTION 2. G.S. 90B-6(i) reads as rewritten:

"(i) The Board may order that any records concerning the practice of social work and relevant to a complaint received by the Board or an inquiry or investigation conducted by or on behalf of the Board shall be produced by the custodian of the records to the Board or for inspection and copying by representatives of or counsel to the Board. A social worker licensed by the Board or an agency employing a social worker licensed by the Board shall maintain records for a minimum of three years from the date the social worker terminates services to the client and the client services record is closed. A social worker certified or licensed by the Board shall cooperate fully and in a timely manner with the Board and its designated representatives in an inquiry or investigation of the records conducted by or on behalf of the Board."

SECTION 3. G.S. 90B-7(f) reads as rewritten:

"(f) The Board may issue a provisional license in clinical social work to a person who has a masters or doctoral degree in a social work program from a college or university having a social work program approved by the Council on Social Work Education and desires to be licensed as a clinical social worker. The provisional license may not be issued for a period exceeding two years and the person issued the provisional license must practice under the supervision of a licensed clinical social worker or a Board-approved alternate. Notwithstanding G.S. 90B-6(g), a provisional licensee shall pass the qualifying clinical examination prescribed by the Board within two years to be eligible for renewal of the provisional license. The provisional licensee shall complete all requirements for full licensure within three renewal cycles, or a total of six years, unless otherwise directed by the Board."

SECTION 4. G.S. 90B-10(b) reads as rewritten:

"(b) The following may engage in clinical social work practice without meeting the requirements of G.S. 90B-7(d):

~~(1) A person who has engaged in clinical social work practice for one year prior to the effective date of this act and who properly applies for and pays the required fees for a certificate as a certified clinical social worker prior to January 1, 1993. Notwithstanding the foregoing provision of this subdivision, any applicant who applied for certification pursuant to this subdivision between December 1, 1993, and January 15, 1994, and who is otherwise eligible for certification under this subdivision but for the January 1, 1993, deadline shall be certified.~~

(2) A student completing a clinical requirement for graduation while pursuing a course of study in social work in an institution accredited by or in candidacy status with the Council on Social Work Education.

~~(3) An employee engaged in clinical social work practice exclusively for one of the following employers:~~

~~a. Expired.~~

~~b. A hospital or health care facility licensed pursuant to Article 2 of Chapter 122C of the General Statutes or Articles 5 and 6 of Chapter 131E of the General Statutes.~~"

SECTION 5. Chapter 90B of the General Statutes is amended by adding a new section to read:

"§ **90B-15. License or certificate to be displayed.**

A person licensed or certified under this Chapter shall conspicuously display the license or certificate issued by the Board at the licensee's or certificate holder's primary place of practice."

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 6:47 p.m. on the 19th day of August, 2007.

Session Law 2007-380 **Senate Bill 925**

AN ACT TO AMEND THE LAW ALLOWING IMPROPER EQUIPMENT AS A LESSER INCLUDED OFFENSE OF SPEEDING AND TO PRECLUDE A PRAYER FOR JUDGMENT CONTINUED AS A DISPOSITION WHERE A DRIVER EXCEEDS THE POSTED SPEED LIMIT BY MORE THAN TWENTY-FIVE MILES PER HOUR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-141(o) reads as rewritten:

"§ **20-141. Speed restrictions.**

…

(o) A violation of G.S. 20-123.2 shall be a lesser included offense in any violation of this ~~section.~~section, and shall be subject to the following limitations and conditions:

(1) A violation of G.S. 20-123.2 shall be recorded in the driver's official record as "Improper equipment – Speedometer."

(2) The lesser included offense under this subsection shall not apply to charges of speeding in excess of 25 miles per hour or more over the posted speed limit.

No drivers license points or insurance surcharge shall be assessed on account of a violation of this subsection."

SECTION 2. G.S. 20-141 is amended by adding a new subsection to read:

"(p) A driver charged with speeding in excess of 25 miles per hour over the posted speed limit shall be ineligible for a disposition of prayer for judgment continued."

SECTION 3. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 6:58 p.m. on the 19th day of August, 2007.

Session Law 2007-381 **Senate Bill 581**

AN ACT TO ALLOW COUNTIES AND CITIES TO PROVIDE BUILDING PERMIT FEE REDUCTIONS OR PARTIAL REBATES TO ENCOURAGE

CONSTRUCTION OF BUILDINGS USING SUSTAINABLE DESIGN PRINCIPLES TO ACHIEVE ENERGY EFFICIENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-340 is amended by adding a new subsection to read:

"(i) In order to encourage construction that uses sustainable design principles and to improve energy efficiency in buildings, a county may charge reduced building permit fees or provide partial rebates of building permit fees for buildings that are constructed or renovated using design principles that conform to or exceed one or more of the following certifications or ratings:

(1) Leadership in Energy and Environmental Design (LEED) certification or higher rating under certification standards adopted by the U.S. Green Building Council.

(2) A One Globe or higher rating under the Green Globes program standards adopted by the Green Building Initiative.

(3) A certification or rating by another nationally recognized certification or rating system that is equivalent or greater than those listed in subdivisions (1) and (2) of this subsection."

SECTION 2. G.S. 160A-381 is amended by adding a new subsection to read:

"(f) In order to encourage construction that uses sustainable design principles and to improve energy efficiency in buildings, a city may charge reduced building permit fees or provide partial rebates of building permit fees for buildings that are constructed or renovated using design principles that conform to or exceed one or more of the following certifications or ratings:

(1) Leadership in Energy and Environmental Design (LEED) certification or higher rating under certification standards adopted by the U.S. Green Building Council.

(2) A One Globe or higher rating under the Green Globes program standards adopted by the Green Building Initiative.

(3) A certification or rating by another nationally recognized certification or rating system that is equivalent or greater than those listed in subdivisions (1) and (2) of this subsection."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 6:59 p.m. on the 19th day of August, 2007.

Session Law 2007-382 **Senate Bill 924**

AN ACT TO CHANGE THE ELEMENT MAKING PASSING A STOPPED SCHOOL BUS AND STRIKING A PERSON A FELONY FROM REQUIRING "SERIOUS BODILY INJURY" AND REMOVING THE REQUIREMENT OF SIGNAGE BEING AT LEAST EIGHT INCHES FROM THE DEFINITION OF SCHOOL

BUS TO CORRESPOND TO THE CHANGES MADE TO G.S. 20-217 IN THE 2005 SESSION AND REQUIRING THAT SCHOOL BUSES BE PAINTED YELLOW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-217(g) reads as rewritten:

"(g) Any person who willfully violates subsection (a) of this section and strikes any ~~person causing serious bodily injury to that person~~ person shall be guilty of a Class I felony."

SECTION 2. G.S. 20-4.01(27)d4. reads as rewritten:

"d4. School bus. – A vehicle whose primary purpose is to transport school students over an established route to and from school for the regularly scheduled school day, that is equipped with alternately flashing red lights on the front and rear and a mechanical stop signal, and that bears the plainly visible words "School Bus" on the front and ~~rear in letters at least 8 inches in height.~~ rear. The term includes a public, private, or parochial vehicle that meets this description."

SECTION 3. G.S. 20-4.01(27)d4., as rewritten by Section 2 of this act, reads as rewritten:

"d4. School bus. – A vehicle whose primary purpose is to transport school students over an established route to and from school for the regularly scheduled school day, that is equipped with alternately flashing red lights on the front and rear and a mechanical stop signal, that is painted primarily yellow below the roofline, and that bears the plainly visible words "School Bus" on the front and rear. The term includes a public, private, or parochial vehicle that meets this description."

SECTION 4. Section 1 of this act becomes effective December 1, 2007 and applies to offenses committed on or after that date. Section 3 of this act becomes effective August 1, 2007, and applies to all school buses acquired on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 6:59 p.m. on the 19th day of August, 2007.

Session Law 2007-383 **House Bill 1755**

AN ACT TO MODERNIZE AND IMPROVE THE ADMINISTRATION OF THE STATE'S 911 SYSTEM THROUGH A STATEWIDE 911 BOARD, BY ENSURING THAT ALL VOICE SERVICES CONTRIBUTE TO THE 911 SYSTEM AND BY PROVIDING PARITY IN THE QUALITY OF SERVICE AND THE LEVEL OF 911 CHARGES ACROSS VOICE COMMUNICATIONS SERVICE PROVIDERS.

Whereas, maintaining an efficient Enhanced 911 system across the State benefits all citizens and not just certain localities; and

Whereas, the Wireless 911 Board has successfully administered the statewide wireless Enhanced 911 system for many years; and

Whereas, local governments have administered a similar wireline Enhanced 911 system for their local jurisdictions; and

Whereas, the average monthly 911 service charges paid to local governments by local exchange company customers exceeds the average monthly 911 service charges paid to the Wireless 911 Board by wireless company customers, thereby creating an unfair competitive advantage for wireless companies; and

Whereas, some VoIP-enabled providers do not currently support the Enhanced 911 system by collecting 911 service charges; and

Whereas, the consolidation of the State's Enhanced 911 system under a single board with a uniform 911 service charge will improve the integration of the State's 911 system, enhance efficiency and accountability, and create a level competitive playing field among voice communications technologies; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 62A of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Emergency Telephone Service.

"**§ 62A-40. Definitions.**

The following definitions apply in this Article.

(1) 911 Board. – The 911 Board established in G.S. 62A-41.

(2) 911 Fund. – The North Carolina 911 Fund established in G.S. 62A-43.

(3) 911 State Plan. – A document prepared, maintained, and updated by the 911 Board that provides a comprehensive plan for communicating 911 call information across networks and among PSAPs, addresses all aspects of the State's 911 system, and describes the allowable uses of revenue in the 911 Fund.

(4) 911 system. – An emergency telephone system that does all of the following:

a. Enables the user of a voice communications service connection to reach a PSAP by dialing the digits 911.

b. Provides enhanced 911 service.

(5) Call taking. – The act of processing a call for emergency assistance up to the point that the call is ready for dispatch, including the use of equipment, call classification, location of a caller, and determination of the appropriate response level for emergency responders.

(6) Commercial Mobile Radio Service (CMRS). – Defined in 47 C.F.R. § 20.3.

(7) CMRS connection. – Each mobile handset telephone number assigned to a CMRS subscriber with a place of primary use in North Carolina.

(8) CMRS provider. – An entity, whether facilities-based or nonfacilities-based, that is licensed by the Federal Communications Commission to provide CMRS or that resells CMRS within North Carolina.

(9) Enhanced 911 service. – Directing a 911 call to an appropriate PSAP by selective routing based on the geographical location from which the call originated and providing information defining the approximate

geographic location and the telephone number of a 911 caller, in accordance with the FCC Order.

(10) Exchange access facility. – The access from a subscriber's premises to the telephone system of a service supplier. The term includes service supplier provided access lines, private branch exchange trunks, and centrex network access registers, as defined by applicable tariffs approved by the North Carolina Utilities Commission. The term does not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Service (WATS), Foreign Exchange (FX), or incoming only lines.

(11) FCC Order. – The Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997, and any consent decrees, rules, and regulations adopted by the Federal Communications Commission pursuant to the Order.

(12) GIS mapping. – Computerized geographical information that can be used to assist in locating a person who calls emergency assistance, including street centerlines, ortho photography, and oblique imaging.

(13) Interconnected VoIP service. – Defined in 47 C.F.R. § 9.3.

(14) Local exchange carrier. – An entity that is authorized to provide telephone exchange service or exchange access in North Carolina.

(15) Prepaid wireless telephone service. – A right that meets all of the following requirements:

a. Authorizes the purchase of CMRS, either exclusively or in conjunction with other services.

b. Must be paid for in advance.

c. Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis.

(16) Primary PSAP. – The first point of reception of a 911 call by a public safety answering point.

(17) Proprietary information. – Subscriber lists, technology descriptions, technical information, or trade secrets that are developed, produced, or received internally by a voice communications service provider or by a voice communications service provider's employees, directors, officers, or agents.

(18) Public safety answering point (PSAP). – The public safety agency that receives an incoming 911 call and dispatches appropriate public safety agencies to respond to the call.

(19) Service supplier. – An entity that provides exchange telephone service to a telephone subscriber.

(20) Subscriber. – A person who purchases a voice communications service and is able to receive it or use it periodically over time.

(21) Voice communications service connection. – Each telephone number assigned to a residential or commercial subscriber by a voice communications service provider, without regard to technology deployed.

(22) Voice communications service. – Any of the following:

a. The transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical,

microwave, wireline, wireless, or other medium or method, regardless of the protocol used.

b. The ability to receive and terminate voice calls to and from the public switched telephone network.

c. Interconnected VoIP service.

(23) Voice communications service provider. – An entity that provides voice communications service to a subscriber.

(24) VoIP provider. – An entity that provides interconnected VoIP service.

"**§ 62A-41. 911 Board.**

(a) Membership. – The 911 Board is established in the Office of Information Technology Services. The 911 Board consists of 17 members as follows:

(1) Four members appointed by the Governor as follows:

a. An individual who represents municipalities appointed upon the recommendation of the North Carolina League of Municipalities.

b. An individual who represents counties appointed upon the recommendation of the North Carolina Association of County Commissioners.

c. An individual who represents a VoIP provider.

d. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

(2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:

a. An individual who is a sheriff.

b. Two individuals who represent CMRS providers operating in North Carolina.

c. An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.

(3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:

a. An individual who is a chief of police.

b. Two individuals who represent CMRS providers operating in North Carolina.

c. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.

(4) The State Chief Information Officer or the State Chief Information Officer's designee, who serves as the chair.

(b) Term. – A member's term is four years. Members remain in office until their successors are appointed and qualified. Vacancies are filled in the same manner as the

original appointment. The Governor may remove any member for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).

(c) Meetings. – Members of the 911 Board serve without compensation. Members receive per diem, subsistence, and travel allowances at the rate established in G.S. 138-5. A quorum of the 911 Board is nine members. The 911 Board meets upon the call of the chair.

(d) Public Servants. – The members of the 911 Board are public servants under G.S. 138A-3 and are subject to the provisions of Chapter 138A of the General Statutes.

"**§ 62A-42. Powers and duties of the 911 Board.**

(a) Duties. – The 911 Board has the following powers and duties:

(1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in voice communications service technology and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, and formulate strategies for the efficient and effective delivery of enhanced 911 service.

(2) To administer the 911 Fund and the monthly 911 service charge authorized by G.S. 62A-43.

(3) To distribute revenue in the 911 Fund to CMRS providers and PSAPs in accordance with this Article and advise CMRS providers and PSAPs of the requirements for receiving a distribution from the 911 Fund.

(4) To establish policies and procedures to fund advisory services and training for PSAPs and to provide funds in accordance with these policies and procedures.

(5) To investigate the revenues and expenditures associated with the operation of a PSAP to ensure compliance with restrictions on the use of amounts distributed from the 911 Fund.

(6) To make and enter into contracts and agreements necessary or incidental to the performance of its powers and duties under this Article and to use revenue available to the 911 Board under G.S. 62A-44 for administrative expenses to pay its obligations under the contracts and agreements.

(7) To accept gifts, grants, or other money for the 911 Fund.

(8) To undertake its duties in a manner that is competitively and technologically neutral as to all voice communications service providers.

(9) To adopt rules to implement this Article. This authority does not include the regulation of any enhanced 911 service, such as the establishment of technical standards.

(10) To take other necessary and proper action to implement the provisions of this Article.

(b) Prohibition. – In no event shall the 911 Board or any other State agency lease, construct, operate, or own a communications network for the purpose of providing 911 service.

"**§ 62A-43. Service charge for 911 service.**

(a) Charge Imposed. – A monthly 911 service charge is imposed on each active voice communications service connection that is capable of accessing the 911 system. The service charge is seventy cents (70¢) or a lower amount set by the 911 Board under

subsection (d) of this section. The service charge is payable by the subscriber to the voice communications service provider. The provider may list the service charge separately from other charges on the bill. Partial payments made by a subscriber are applied first to the amount the subscriber owes the provider for the voice communications service.

(b) Prepaid Wireless. – A voice communications service provider of prepaid wireless telephone service must collect and remit to the 911 Board the monthly service charge imposed upon prepaid wireless telephone subscribers in the State under one of the following methods:

(1) Collecting the service charge from each active prepaid wireless telephone service subscriber whose account balance is equal to or greater than the amount of the service charge.

(2) Dividing the provider's total earned prepaid wireless telephone service revenue received for the month from each active prepaid wireless telephone service subscriber by fifty dollars ($50.00) and multiplying the quotient by the amount of the service charge.

(c) Remittance to 911 Board. – A voice communications service provider must remit the service charges collected by it under this section to the 911 Board. The provider must remit the collected service charges by the end of the calendar month following the month the provider received the charges from its subscribers. A provider may deduct and retain from the service charges it receives from its subscribers and remits to the 911 Board an administrative allowance equal to the greater of one percent (1%) of the amount of service charges remitted or fifty dollars ($50.00) a month.

(d) Adjustment of Charge. – The 911 Board must monitor the revenues generated by the service charge. If the 911 Board determines that the rate produces revenue in excess of the amount needed, the 911 Board must reduce the rate. The reduced rate must ensure full cost recovery for voice communications service providers and for primary PSAPs over a reasonable period of time. A change in the amount of the rate becomes effective only on July 1 of an even-numbered year. The 911 Board must notify providers of a change in the rate at least 90 days before the change becomes effective.

(e) Collection. – A voice communications service provider has no obligation to take any legal action to enforce the collection of the service charge billed to a subscriber. The 911 Board may initiate a collection action, and reasonable costs and attorneys' fees associated with that collection action may be assessed against the subscriber. At the request of the 911 Board, but no more than annually, a voice communications service provider must report to the 911 Board the amount of the provider's uncollected service charges. The 911 Board may request, to the extent permitted by federal privacy laws, the name, address, and telephone number of a subscriber who refuses to pay the 911 service charge.

(f) Restriction. – A local government may not impose a service charge or other fee on a subscriber to support the 911 system.

"**§ 62A-44. 911 Fund.**

(a) Fund. – The 911 Fund is created as an interest-bearing special revenue fund within the State treasury. The 911 Board administers the Fund. The 911 Board must credit to the 911 Fund all revenues remitted to it from the service charge imposed by G.S. 62A-43 on voice communications service connections in the State. Revenue in the Fund may only be used as provided in this Article.

(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses up to one percent (1%) of the total service charges remitted to it

under G.S. 62A-43 for deposit in the 911 Fund. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

(1) Fifty-three percent (53%) of the funds remitted by CMRS providers to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 62A-45.

(2) Forty-seven percent (47%) of the funds remitted by CMRS providers and all funds remitted by all other voice communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 62A-46 and grants to PSAPs pursuant to G.S. 62A-47.

(c) Report. – In February of each odd-numbered year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Joint Legislative Utility Review Committee. The report must contain complete information regarding receipts and expenditures of all funds received by the 911 Board during the period covered by the report, the status of the 911 system in North Carolina at the time of the report, and the results of any investigations by the Board of PSAPs that have been completed during the period covered by the report.

(d) Nature of Revenue. – The General Assembly finds that distributions of revenue from the 911 Fund are not State expenditures for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold revenue in the 911 Fund.

"**§ 62A-45. Fund distribution to CMRS providers.**

(a) Distribution. – CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

(1) Invoices must be sworn.

(2) All costs and expenses must be commercially reasonable.

(3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.

(4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:

a. One hundred percent (100%) of the eligible costs allowed under this section.

b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

(b) Payment Carryforward. – If the total amount of invoices submitted to the 911 Board and approved for payment in a month exceeds the amount available from the 911 Fund for reimbursements to CMRS providers, the amount payable to each CMRS provider is reduced proportionately so that the amount paid does not exceed the amount available for payment. The balance of the payment is deferred to the following month. A deferred payment accrues interest at a rate equal to the rate earned by the 911 Fund until it is paid.

(c) Grant Reallocation. – If the amount of reimbursements to CMRS providers approved by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may

reallocate part or all of the excess amount to the PSAP Grant Account established under G.S. 62A-47. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than three million dollars ($3,000,000) to the PSAP Grant Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 62A-44 to reflect more accurately the underlying costs of providing 911 system services.

The 911 Board must make the following findings before it reallocates funds to the PSAP Grant Account:

(1) There is a critical need for additional funding for PSAPs in rural or high-cost areas to ensure that enhanced 911 service is deployed throughout the State.

(2) The reallocation will not impair cost recovery by CMRS providers.

(3) The reallocation will not result in the insolvency of the 911 Fund.

"**§ 62A-46. Fund distribution to PSAPs.**

(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. The amount to be distributed to each primary PSAP is the sum of the following:

(1) The PSAP's base amount. – The PSAP's base amount is the amount the PSAP received in the fiscal year ending June 30, 2007, and deposited in the Emergency Telephone System Fund of its local governing entity, as reported to the State Treasurer's Office, Local Government Division.

(2) The PSAP's per capita amount. – The PSAP's per capita amount is the PSAP's per capita share of the amount designated by the Board under subsection (b) of this section for the per capita distribution. The 911 Board must use the most recent population estimates certified by the State Budget Officer in making the per capita distribution under this subdivision. A PSAP is not eligible for a distribution under this subdivision unless it provides enhanced 911 service.

(b) Percentage Designations. – The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in G.S. 62A-47. If the 911 Board does not designate an amount to be allocated to the PSAP Grant Account, the 911 Board must distribute all of the remaining funds on a per capita basis. The 911 Board may not change the percentage designation more than once each calendar year.

(c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

(1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system.

(2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, and training associated with call taking, and emergency medical, fire, or law enforcement procedures. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

(3) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the voice communications service provider for all 911 installation, service, equipment, operation, and maintenance charges owed to the voice communications service provider. A PSAP may contract with a voice communications service provider on terms agreed to by the PSAP and the provider.

(d) Local Fund. – The fiscal officer of a PSAP to whom a distribution is made under this section must deposit the funds in a special revenue fund, as defined in G.S. 159-26(b)(2), designated as the Emergency Telephone System Fund. The fiscal officer may invest money in the Fund in the same manner that other money of the local government may be invested. Income earned from the invested money in the Emergency Telephone System Fund must be credited to the Fund. Revenue deposited into the Fund must be used only as permitted in this section.

(e) Compliance. – A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

(1) A county or municipality that has one or more PSAPs must submit in writing to the 911 Board information that identifies the PSAPs in the manner required by the FCC Order.

(2) A participating PSAP must annually submit to the 911 Board a copy of its governing agency's proposed or approved budget detailing the revenues and expenditures associated with the operation of the PSAP. The PSAP budget must identify revenues and expenditures for eligible expense reimbursements as provided in this Article and rules adopted by the 911 Board.

(3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.

(4) A PSAP must comply with all requests by the 911 Board for financial information related to the operation of the PSAP.

"**§ 62A-47. PSAP Grant Account.**

(a) Account Established. – A PSAP Grant Account is established within the 911 Fund for the purpose of making grants to PSAPs in rural and other high-cost areas. The

Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and G.S. 62A-46.

(b) Application. – A PSAP may apply to the 911 Board for a grant from the PSAP Grant Account. An application must be submitted in the manner prescribed by the 911 Board. The 911 Board may approve a grant application and enter into a grant agreement with a PSAP if it determines all of the following:

(1) The costs estimated in the application are reasonable and have been or will be incurred for the purpose of promoting a cost-effective and efficient 911 system.

(2) The expenses to be incurred by the applicant are consistent with the 911 State Plan.

(3) There are sufficient funds available in the fiscal year in which the grant funds will be distributed.

(4) The costs are authorized PSAP costs under G.S. 62A-46(c).

(c) Agreement. – A grant agreement between the 911 Board and a PSAP must include the purpose of the grant, the time frame for implementing the project or program funded by the grant, the amount of the grant, and a provision for repaying grant funds if the PSAP fails to comply with any of the terms of the grant. The amount of the grant may vary among grantees. If the grant is intended to promote the deployment of enhanced 911 service in a rural area of the State, the grant agreement must specify how the funds will assist with this goal. The 911 Board must publish one or more notices each fiscal year advertising the availability of grants from the PSAP Grant Account and detailing the application process, including the deadline for submitting applications, any required documents specifying costs, either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant funds awarded to PSAPs under this section are in addition to any funds reimbursed under G.S. 62A-46.

"**§ 62A-48. Recovery of unauthorized use of funds.**

The 911 Board must give written notice of violation to any voice communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the voice communications service provider or PSAP must cease making any unauthorized expenditures. The voice communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the voice communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a voice communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken.

"**§ 62A-49. Conditions for providing enhanced 911 service.**

In accordance with the FCC Order, no CMRS provider is required to provide enhanced 911 service until all of the following conditions are met:

(1) The provider receives a request for the service from the administrator of a PSAP that is capable of receiving and utilizing the data elements associated with the service.

(2) Funds for reimbursement of the CMRS provider's costs are available pursuant to G.S. 62A-45.

(3) The local exchange carrier is able to support the requirements of enhanced 911 service.

"**§ 62A-50. Audit.**

The State Auditor may perform audits of the 911 Board pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds in the 911 Fund are being managed in accordance with the provisions of this Article. The State Auditor must perform an audit of the 911 Board at least every two years. The 911 Board must reimburse the State Auditor for the cost of an audit of the 911 Board.

"**§ 62A-51. Subscriber records.**

Each CMRS provider must provide its 10,000 number groups to a PSAP upon request. This information remains the property of the disclosing CMRS provider and must be used only in providing emergency response services to 911 calls. CMRS voice communications service provider connection information obtained by PSAP personnel for public safety purposes is not public information under Chapter 132 of the General Statutes. No person may disclose or use, for any purpose other than the 911 system, information contained in the database of the telephone network portion of a 911 system.

"**§ 62A-52. Proprietary information.**

All proprietary information submitted to the 911 Board or the State Auditor is confidential. Proprietary information submitted pursuant to this Article is not subject to disclosure under Chapter 132 of the General Statutes, and it may not be released to any person other than to the submitting CMRS voice communications service provider, the 911 Board, and the State Auditor without the express permission of the submitting CMRS voice communications service provider. Proprietary information is considered a trade secret under the Trade Secrets Protection Act, Article 24 of Chapter 66 of the General Statutes. General information collected by the 911 Board or the State Auditor may be released or published only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS voice communications service provider.

"**§ 62A-53. Limitation of liability.**

Except in cases of wanton or willful misconduct, a voice communications service provider and its employees, directors, officers, and agents are not liable for any damages in a civil action resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating the 911 system or in complying with emergency-related information requests from State or local government officials. This section does not apply to actions arising out of the operation or ownership of a motor vehicle.

SECTION 1.(b) Article 19 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-111.4. Misuse of 911 system.**

It is unlawful for an individual who is not seeking public safety assistance, is not providing 911 service, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication. A person who knowingly violates this section commits a Class 3 misdemeanor. If a person knowingly accesses or attempts to access the 911 system for the purpose of avoiding a charge for voice communications service, as defined in G.S. 62A-40, and the value of the charge exceeds one hundred dollars ($100.00), the person commits a Class 1 misdemeanor."

SECTION 2.(a) Article 1 of Chapter 62A of the General Statutes is repealed.

SECTION 2.(b) Any funds remaining in the Emergency Telephone System Fund or required to be remitted by a service supplier to the local fiscal officer for deposit to the fund, collected pursuant to Article 1 of Chapter 62A of the General Statutes prior to the effective date of this act, are transferred to the General Fund of the local governing entity to be used for any lawful purpose. Any local governing entity is not relieved of any prior obligation incurred for uses authorized by G.S. 62A-8.

SECTION 3.(a) Article 2 of Chapter 62A of the General Statutes is repealed.

SECTION 3.(b) The records, personnel, property, and unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting and purchasing, of the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes and repealed by subsection (a) of this section, are transferred to the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act. All rules, decisions, and actions adopted, made, or taken by the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes that have not been repealed or rescinded continue in effect until repealed or rescinded by the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act.

SECTION 3.(c) The members of the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes, other than a member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to represent CMRS providers, serve as 11 of the initial members of the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act, without reappointment by the Governor or the General Assembly. The State Chief Information Officer must designate which of the initial members who transfer to the 911 Board from the Wireless 911 Board serve four-year terms and which serve six-year terms so that the terms of half the members of the 911 Board, other than the State Chief Information Officer, will expire every two years.

The following membership positions for the 911 Board have no counterparts on the Wireless 911 Board and must be appointed in accordance with Article 3 of Chapter 62A of the General Statutes:

(1) Of the appointments by the Governor, an individual representing a VoIP provider and an individual representing the North Carolina chapter of the National Emergency Number Association (NENA).

(2) Of the appointments by the General Assembly upon the recommendation of the Speaker of the House of Representatives, two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.

(3) Of the appointments by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, an individual who represents a local exchange carrier with less than 200,000 access lines.

SECTION 4. G.S. 62-157 reads as rewritten:

"§ **62-157. Telecommunications relay service.**

(a) Finding. – The General Assembly finds and declares that it is in the public interest to provide access to public telecommunications services for hearing impaired or speech impaired persons, including those who also have vision impairment, and that a statewide telecommunications relay service for telephone service should be established.

(a1) Definitions. – For purposes of this section:

(1) "CMRS" is as defined in G.S. ~~62A-21.~~62A-40.

(2) "CMRS connection" is as defined in G.S. ~~62A-21.~~62A-40.

(3) "CMRS provider" is as defined in G.S. ~~62A-21.~~62A-40.

(4) "Exchange access facility" means the access from a particular telephone subscriber's premises to the telephone system of a local exchange telephone company, and includes local exchange company-provided access lines, private branch exchange trunks, and centrex network access registers, all as defined by tariffs of telephone companies as approved by the Commission.

(5) "Local service provider" means a local exchange company, competing local provider, or telephone membership corporation.

(b) Authority to Require Surcharge. – The Commission shall require local service providers to impose a monthly surcharge on all residential and business local exchange access facilities to fund a statewide telecommunications relay service by which hearing impaired or speech impaired persons, including those who also have vision impairment, may communicate with others by telephone. This surcharge, however, may not be imposed on participants in the Subscriber Line Charge Waiver Program or the Link-up Carolina Program established by the Commission. This surcharge, and long distance revenues collected under subsection (f) of this section, are not includable in gross receipts subject to the franchise tax levied under G.S. 105-120 or the sales tax levied under G.S. 105-164.4.

(c) Specification of Surcharge. – The Department of Health and Human Services shall initiate a telecommunications relay service by filing a petition with the Commission requesting the service and detailing initial projected required funding. The Commission shall, after giving notice and an opportunity to be heard to other interested parties, set the initial monthly surcharge based upon the amount of funding necessary to implement and operate the service, including a reasonable margin for a reserve. The surcharge shall be identified on customer bills as a special surcharge for provision of a telecommunications relay service for hearing impaired and speech impaired persons. The Commission may, upon petition of any interested party, and after giving notice and an opportunity to be heard to other interested parties, revise the surcharge from time to time if the funding requirements change. In no event shall the surcharge exceed twenty-five cents (25¢) per month for each exchange access facility.

(d) Funds to Be Deposited in Special Account. – The local service providers shall collect the surcharge from their customers and deposit the moneys collected with the State Treasurer, who shall maintain the funds in an interest-bearing, nonreverting account. After consulting with the State Treasurer, the Commission shall direct how and when the local service providers shall deposit these moneys. Revenues from this fund shall be available only to the Department of Health and Human Services to administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Commission may allow the Department of Health and Human Services to use up to four cents (4¢) per access line per month of the surcharge for the purpose of providing telecommunications devices for hearing impaired or speech impaired persons, including those who also have vision impairment, through a distribution program. The Commission shall prepare such guidelines for the distribution program as it deems appropriate and in the public interest. Both the Commission and the Public Staff may audit all aspects of the telecommunications relay service program, including the distribution programs, as they do with any public utility subject to the

provisions of this Chapter. Equipment paid for with surcharge revenues, as allowed by the Commission, may be distributed only by the Department of Health and Human Services.

(e) Administration of Service. – The Department of Health and Human Services shall administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Department may contract out the provision of this service for four-year periods to one or more service providers, using the provisions of G.S. 143-129.

(f) Charge to Users. – The users of the telecommunications relay service shall be charged their approved long distance and local rates for telephone services (including the surcharge required by this section), but no additional charges may be imposed for the use of the relay service. The local service providers shall collect revenues from the users of the relay service for long distance services provided through the relay service. These revenues shall be deposited in the special fund established in subsection (d) of this section in a manner determined by the Commission after consulting with the State Treasurer. Local service providers shall be compensated for collection, inquiry, and other administrative services provided by said companies, subject to the approval of the Commission.

(g) Reporting Requirement. – The Commission shall, after consulting with the Department of Health and Human Services, develop a format and filing schedule for a comprehensive financial and operational report on the telecommunications relay service program. The Department of Health and Human Services shall thereafter prepare and file these reports as required by the Commission with the Commission and the Public Staff. The Department shall also be required to report to the Revenue Laws Study Committee.

(h) Power to Regulate. – The Commission shall have the same power to regulate the operation of the telecommunications relay service program as it has to regulate any public utility subject to the provisions of this Chapter.

(i) Wireless Surcharge. – A CMRS provider, as part of its monthly billing process, must collect the same surcharge imposed on each exchange access facility under this section for each CMRS connection. A CMRS provider may deduct a one percent (1%) administrative fee from the total amount of surcharge collected. A CMRS provider shall remit the surcharge collected, less the administrative fee, to the ~~Wireless~~ 911 Board in the same manner and with the same frequency as the local service providers remit the surcharge to the State Treasurer. The ~~Wireless~~ 911 Board shall remit the funds collected from the surcharge to the special account created under subsection (d) of this section."

SECTION 5. G.S. 105-130.5(b)(17) reads as rewritten:

"(17) To the extent included in federal taxable income, 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.~~the following:~~

~~a. The amount of 911 charges collected under G.S. 62A-5 and remitted to a local government under G.S. 62A-6.~~

~~b. The amount of wireless Enhanced 911 service charges collected under G.S. 62A-23 and remitted to the Wireless Fund under G.S. 62A-24.~~"

SECTION 6. G.S. 105-164.13(54)c. reads as rewritten:

"c. 911 charges imposed under ~~G.S. 62A-4 or G.S. 62A-23~~ G.S. 62A-43 and remitted to the ~~Emergency Telephone System~~

911 Fund under ~~G.S. 62A-7 or the Wireless Fund under G.S. 62A-24.~~that section."

SECTION 7.(a) The Joint Legislative Utility Review Committee is directed to determine the best method for collecting the service charge imposed by G.S. 62A-43 from prepaid telephone wireless subscribers. The Committee is further directed to submit a final report of its findings and recommendations to the 2007 General Assembly, Regular Session 2008.

SECTION 7.(b) Notwithstanding G.S. 62A-23, the charge imposed by that section does not apply to prepaid wireless telephone service effective August 1, 2007.

SECTION 7.(c) Notwithstanding G.S. 62A-43, the charge imposed by that section does not apply to prepaid wireless telephone service for the 2008 calendar year.

SECTION 8. Sections 1 through 6 of this act become effective January 1, 2008. Section 1(b) of this act applies to offenses committed on or after January 1, 2008. The remaining sections of this act are effective when they become law.

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law upon approval of the Governor at 7:02 p.m. on the 19th day of August, 2007.

Session Law 2007-384 **Senate Bill 580**

AN ACT TO ESTABLISH THE LOCAL GOVERNMENT POST-EMPLOYMENT BENEFITS FUND UNDER THE MANAGEMENT OF THE STATE TREASURER, TO ESTABLISH THE LOCAL GOVERNMENT LAW ENFORCEMENT SPECIAL SEPARATION ALLOWANCE BENEFITS FUND UNDER THE MANAGEMENT OF THE STATE TREASURER, TO AUTHORIZE THE TREASURER TO MAKE EQUITY INVESTMENTS FROM THE FUND TO THE SAME EXTENT ALLOWED FOR CERTAIN INVESTMENTS FROM THE STATE RETIREMENT SYSTEM, TO ALLOW LOCAL ENTITIES TO ESTABLISH OTHER IRREVOCABLE TRUSTS TO FUND POST-EMPLOYMENT BENEFITS, AND TO ALLOW LOCAL GOVERNMENTS TO ESTABLISH OTHER IRREVOCABLE TRUSTS TO FUND LAW ENFORCEMENT SPECIAL SEPARATION ALLOWANCE BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-69.4. Local Government Other Post-Employment Benefits Fund.**

The Local Government Other Post-Employment Benefits Fund is established as a fund in the Office of the State Treasurer under the management of the Treasurer. The Fund consists of contributions made by local governments and other entities authorized to make contributions to the Fund and interest and other investment income earned by the Fund. Contributions to the Fund are irrevocable. Assets of the Fund may be used only to provide other post-employment benefits to individuals who are former employees, or beneficiaries of former employees, of an entity that contributes to the Fund and are entitled to other post-employment benefits payable by the entity. The assets of the Fund are not subject to the claims of creditors of an entity that contributes to the Fund."

SECTION 2. G.S. 147-69.2(a) reads as rewritten:

"(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

…

(17g) The Local Government Other Post-Employment Benefits Fund.

…."

SECTION 3. G.S. 147-69.2 is amended by adding a new subsection to read:

"(b4) In addition to the investments authorized under subdivisions (b)(1) through (b)(6) of this section, the State Treasurer may invest funds deposited in the Local Government Other Post-Employment Benefits Fund in the investments authorized under subdivision (b)(8) of this section. For investments from that Fund made under subdivision (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars ($100,000) and may assess a fee of up to 15 basis points as a condition of making the investment. The fee may be used to defray the costs of administering the Fund."

SECTION 4. G.S. 159-30 is amended by adding a new subsection to read:

"(g) A local government, public authority, an entity eligible to participate in the Local Government Employee's Retirement System, or a local school administrative unit may make contributions to the Local Government Other Post-Employment Benefits Fund established in G.S. 147-69.4."

SECTION 5. Article 3 of Chapter 159 of the General Statutes is amended by adding a new section to read:

"**§ 159-30.1. Trust for other post-employment benefits.**

(a) Trust. – A local government, a public authority, an entity eligible to participate in the Local Government Employee's Retirement System, or a local school administrative unit may establish and fund an irrevocable trust for the purpose of paying post-employment benefits for which the entity is liable. The irrevocable trust must be established by resolution or ordinance of the entity's governing board. The resolution or ordinance must state the purposes for which the trust is created and the method of determining and selecting the Fund's trustees. The resolution or ordinance establishing the trust may be amended from time to time, but an amendment may not authorize the use of monies in the trust for a purpose not stated in the resolution or ordinance establishing the trust.

(b) Restrictions. – Monies in an irrevocable trust established under subsection (a) of this section may be appropriated only for the purposes for which the trust was established. Monies in the trust are not subject to the claims of creditors of the entity that established the trust. An entity that establishes a trust may not deposit money in the trust if the total amount held in trust would exceed the entity's actuarial liability, determined in accordance with the standards of the Governmental Accounting Standards Board, for the purposes for which the trust was established."

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

"**§ 147-69.5. Local Government Law Enforcement Special Separation Allowance Fund.**

The Local Government Law Enforcement Special Separation Allowance Fund is established as a fund in the Office of the State Treasurer under the management of the Treasurer. The Fund consists of contributions made by entities authorized to make contributions to the Fund and interest and other investment income earned by the Fund. Contributions to the Fund are irrevocable. Assets of the Fund may be used only to

provide law enforcement special separation allowance benefits to individuals who are former employees of a unit of local government that contributes to the Fund and are entitled to law enforcement special separation allowance payable by the unit. The assets of the Fund are not subject to the claims of creditors of an entity that contributes to the Fund."

SECTION 7. G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

…

(17h) The Local Government Law Enforcement Special Separation Allowance Fund.

…."

SECTION 8. G.S. 147-69.2 is amended by adding a new subsection to read:

"(b5) In addition to the investments authorized under subdivisions (b)(1) through (b)(6) of this section, the State Treasurer may invest funds deposited in the Local Government Law Enforcement Special Separation Allowance Fund in the investments authorized under subdivision (b)(8) of this section. For investments from that Fund made under subdivision (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars ($100,000) and may assess a fee of up to 15 basis points as a condition of making the investment. The fee may be used to defray the costs of administering the Fund."

SECTION 9. G.S. 159-30 is amended by adding a new subsection to read:

"(g) A unit of local government employing local law enforcement officers may make contributions to the Local Government Law Enforcement Special Separation Allowance Fund established in G.S. 147-69.5."

SECTION 10. Article 3 of Chapter 159 of the General Statutes is amended by adding a new section to read:

"**§ 159-30.2 Trust for law enforcement special separation allowance benefits.**

(a) Trust. – A unit of local government employing local law enforcement officers may establish and fund an irrevocable trust for the purpose of paying law enforcement special separation allowance benefits for which the unit of local government is liable. The irrevocable trust must be established by resolution or ordinance of the unit's governing board. The resolution or ordinance must state the purposes for which the trust is created and the method of determining and selecting the Fund's trustees. The resolution or ordinance establishing the trust may be amended from time to time, but an amendment may not authorize the use of monies in the trust for a purpose not stated in the resolution or ordinance establishing the trust.

(b) Restrictions. – Monies in an irrevocable trust established under subsection (a) of this section may be appropriated only for the purposes for which the trust was established. Monies in the trust are not subject to the claims of creditors of the entity that established the trust. A unit of local government that establishes a trust may not deposit money in the trust if the total amount held in trust would exceed the unit's actuarial liability, determined in accordance with the standards of the Governmental Accounting Standards Board, for the purpose for which the trust was established."

SECTION 10.1. G.S. 128-27(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance

payable throughout life, or he may elect to receive the actuarial equivalent of such retirement ~~allowance~~ allowance, including any special retirement allowance, in a reduced allowance payable throughout life under the provisions of one of the Options set forth below. The election of Option two or Option three or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may request to nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage, and may nominate a new spouse to receive the retirement allowance under the previously elected option by written designation duly acknowledged and filed with the Board of Trustees within 120 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. Any member having elected Options two, three, or six and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option.

Option one.

(a) In the Case of a Member Who Retires prior to July 1, 1965. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative.

(b) In the Case of a Member Who Retires on or after July 1, 1965, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one one-hundred-twentieth thereof for each month for which he has received a retirement allowance payment, shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative; or

Option two. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option three. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written

designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option four. Adjustment of Retirement Allowance for Social Security Benefits. – Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Table II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option five. For Members Retiring prior to July 1, 1993. – The member may elect to receive a reduced retirement allowance under the conditions of Option two or Option three, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120th thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option six. A member may elect either Option two or Option three with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

SECTION 10.2. G.S. 128-27 is amended by adding a new subsection to read:

"(m1) Special Retirement Allowance for Law Enforcement Officers – Upon retirement, a member who is a law enforcement officer may elect to transfer his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 128-29(o). Provided, however, a member who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 10.3. G.S. 135-5(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such

retirement ~~allowance~~ allowance, including any special retirement allowance, in a reduced allowance payable throughout life under the provisions of one of the options set forth below. The election of Option 2 or Option 3 or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may request to nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage, and may nominate a new spouse to receive the retirement allowance under the previously elected option by written designation duly acknowledged and filed with the Board of Trustees within 120 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. Any member having elected Options 2, 3, or 6 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option.

Option 1.(a) In the Case of a Member Who Retires prior to July 1, 1963. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

(b) In the Case of a Member Who Retires on or after July 1, 1963, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which he has received a retirement allowance payment, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees; or

Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 4. Adjustment of Retirement Allowance for Social Security Benefits. – Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Title II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option 5. For Members Retiring Prior to July 1, 1993. – The member may elect to receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

SECTION 10.4. G.S. 135-5 is amended by adding a new subsection to read:

"(m1) Special Retirement Allowance for Law Enforcement Officers – Upon retirement, a member who is a law enforcement officer may elect to transfer his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

SECTION 10.5. G.S. 143-166.30(d) reads as rewritten:

"(d) Supplemental Retirement Income Plan for State Law-Enforcement Officers. – As of January 1, 1985, there shall be created a Supplemental Retirement Income Plan, hereinafter called the "Plan," established for the benefit of all law-enforcement officers employed by the State, who shall be participants. The Board of Trustees of the State Retirement System shall administer the Plan and shall, under the terms and conditions otherwise appearing herein, provide Plan benefits either (i) by establishing a separate trust fund in conformance with Section 401(a), Section 401(k) or other sections of the

Internal Revenue Code of 1954 as amended or, (ii) by causing the Plan to affiliate with some master trust fund providing the same benefits for participants. The Plan shall be separate and apart from any retirement systems.

In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System and the contributions otherwise provided for in this Article, participants may make voluntary contributions to the Plan to be credited to the designated individual accounts of participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year.

All contributions to the Plan shall be credited to the individual accounts of participants, and shall be fully and immediately vested in the name of the participant, and shall be invested according to each participant's election, as provided by the Board of Trustees, including but not limited to time deposits, and both fixed and variable investments. The Plan may provide for loans to participants, at reasonable rates of interest to be charged, from participants' individual accounts, and may provide for withdrawal of contributions on account of hardship.

The benefit to a participant in the Plan shall be either a lump-sum distribution or a distribution in periodic installments of the participant's account payable under retirement, disability, or termination of employment. Upon the death of a participant there shall be paid the same lump-sum distribution or periodic installments to the surviving spouse of the participant or otherwise to the participant's estate; provided, should a participant instruct the Board of Trustees in writing that he does not wish these benefits to be paid to his spouse or estate, then the benefits shall be paid to the person or persons as the participant may name for this purpose.

Upon retirement, a participant in the Plan may elect to transfer his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Teachers' and State Employees' Retirement System and receive, in addition to his basic service, early or disability retirement allowance a special retirement allowance which shall be based on his eligible accumulated account balance at the date of the transfer of the assets."

SECTION 10.6. G.S. 143-166.50(e) reads as rewritten:

"(e) Supplemental Retirement Income Plan for Local Governmental Law-Enforcement Officers. – As of January 1, 1986, all law-enforcement officers employed by a local government employer, are participating members of the Supplemental Retirement Income Plan as provided by Article 5 of Chapter 135 of the General Statutes. In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System, participants may make voluntary contributions to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year. From July 1, 1987, until July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to at least two percent (2%) of participating local officers' monthly compensation to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participating local officers; and on and after July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to five percent (5%) of participating local officers' monthly compensation to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participating local officers.

Additional contributions shall also be made to the individual accounts of all participants in the Plan, except for Sheriffs, on a per capita equal-share basis from the sum of one dollar and twenty-five cents ($1.25) for each cost of court collected under G.S. 7A-304.

Upon retirement, a participant in the Plan may elect to transfer his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Local Governmental Employees' Retirement System and receive, in addition to his basic service, early or disability retirement allowance a special retirement allowance which shall be based on his eligible accumulated account balance at the date of the transfer of the assets."

SECTION 11.(a) Sections 1 through 10 of this act are effective when they become law. This section is effective when it becomes law.

SECTION 11.(b) The Board of Trustees of the Teachers' and State Employees' Retirement System shall adopt straight life annuity factors, for the purpose of determining the special retirement allowance, based upon mortality and such other tables and the interest assumption rate recommended by the actuary based upon the actual experience as reported in the last five year experience study as required by G.S. 135-6(n) and including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees of the Local Governmental Employees' Retirement System shall adopt straight life annuity factors, for the purpose of determining the special retirement allowance, based upon mortality and such other tables and the interest assumption rate recommended by the actuary based upon the actual experience as reported in the last five year experience study as required by G.S. 128-29(o) and including an assumed annual post-retirement allowance increase of four percent (4%). Sections 10.1 through 10.6 of this act become effective the first of the month following the adoption of those factors by the Boards of Trustees.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 7:06 p.m. on the 19th day of August, 2007.

Session Law 2007-385 **Senate Bill 576**

AN ACT TO AMEND THE LAWS GOVERNING BUSINESS ENTITIES TO MAKE VARIOUS CLARIFYING AND TECHNICAL CHANGES REGARDING MERGERS AND THE AUTHORITY OF BOARD COMMITTEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 55-8-25(e) reads as rewritten:

"(e) A committee shall not, however, do any of the following:

(1) Authorize ~~distributions.~~ or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors.

(2) Approve or propose to shareholders action that this act requires be approved by shareholders.

(3) Fill vacancies on the board of directors or on any of its committees.

(4) Amend articles of incorporation pursuant to G.S. 55-10-02.

(5) Adopt, amend, or repeal bylaws.

(6) Approve a plan of merger not requiring shareholder approval."

SECTION 2. G.S. 55-11-10(e)(6) reads as rewritten:

"(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the ~~articles~~ plan of merger or, in the case of former holders of shares in a domestic corporation, any rights they may have under Article 13 of this Chapter; and".

SECTION 3. G.S. 55A-11-09(e)(6) reads as rewritten:

"(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the ~~articles~~ plan of merger or, in the case of former holders of shares in a domestic business corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and".

SECTION 4. G.S. 57C-9A-23(a)(6) reads as rewritten:

"(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the ~~articles~~ plan of merger or, in the case of former holders of shares in a domestic corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and".

SECTION 5. G.S. 59-73.33(a)(5) reads as rewritten:

"(5) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests ~~in each merging business entity~~ are entitled only to the rights provided to them in the ~~articles~~ plan of merger or, in the case of former holders of shares in a domestic ~~corporation (as defined in G.S. 55-1-40),~~ corporation, as defined in G.S. 55-1-40, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and".

SECTION 6. G.S. 59-1073(a)(6) reads as rewritten:

"(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the ~~articles~~ plan of merger or, in the case of former holders of shares in a domestic corporation as defined in G.S. 55-1-40, any rights they have under Article 13 of Chapter 55 of the General Statutes; and".

SECTION 7. The Revisor of Statutes may cause to be printed all explanatory comments of the drafters of the act as the Revisor deems appropriate.

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

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 7:07 p.m. on the 19th day of August, 2007.

Session Law 2007-386 **Senate Bill 661**

AN ACT TO AMEND ALCOHOLIC BEVERAGE CONTROL ELECTION LAWS TO ALLOW CITIES WHICH ARE LOCATED IN MORE THAN ONE COUNTY TO HAVE A CITYWIDE ELECTION FOR MIXED BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-600(e4)(2) reads as rewritten:

"§ **18B-600. Places eligible to hold alcoholic beverage elections.**

…

(e4) Multicounty/City ABC Elections. – If a city is located in two or more counties, the following provisions shall apply:

…

(2) The city may hold a mixed beverage election if the city has at least 500 registered voters and a county in which a portion of the city is located operates ABC ~~stores.~~stores, or a municipality in either county in which the city is located operates an ABC store.

…."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 7:08 p.m. on the 19th day of August, 2007.

Session Law 2007-387 **Senate Bill 728**

AN ACT TO ENCOURAGE MEDIATION IN DISTRICT CRIMINAL COURTS AND TO ESTABLISH A PROGRAM WITHIN THE DISPUTE RESOLUTION COMMISSION FOR THE CERTIFICATION OF MEDIATORS WORKING IN THE DISTRICT CRIMINAL COURTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"**§ 7A-38.3D. Mediation in matters within the jurisdiction of the district criminal courts.**

(a) Purpose. – The General Assembly finds that it is in the public interest to promote high standards for persons who mediate matters in district criminal court. To that end, a program of certification for these mediators shall be established in judicial districts designated by the Dispute Resolution Commission and the Director of the Administrative Office of the Courts and in which the chief district court judge, the district attorney, and the community mediation center agree to participate. This section does not supersede G.S. 7A-38.5.

(b) Enabling Authority. – In each district, the court may encourage mediation for any criminal district court action pending in the district, and the district attorney may delay prosecution of those actions so that the mediation may take place.

(c) Program Administration. – A community mediation center established under G.S. 7A-38.5 and located in a district designated under subsection (a) of this section shall assist the court in administering a program providing mediation services in district criminal court cases. A community mediation center may assist in the screening and scheduling of cases for mediation and provide certified volunteer or staff mediators to conduct district criminal court mediations.

(d) Rules of Procedure. – The Supreme Court shall adopt rules to implement this section. Each mediation shall be conducted pursuant to this section and the Supreme Court Rules as adopted.

(e) Mediator Authority. – In the mediator's discretion, any person whose presence and participation may assist in resolving the dispute or addressing any issues underlying the mediation may be permitted to attend and participate. The mediator shall have discretion to exclude any individual who seeks to attend the mediation but whose participation the mediator deems would be counterproductive. Lawyers for the participants may attend and participate in the mediation.

(f) Mediator Qualification. – The Supreme Court shall establish requirements for the certification or qualification of mediators serving under this section. The Court shall also establish requirements for the qualification of training programs and trainers, including community mediation center staff, that train these mediators. The Court shall also adopt rules regulating the conduct of these mediators and trainers.

(g) Oversight and Evaluation. – The Supreme Court may require community mediation centers and their volunteer or staff mediators to collect and report caseload statistics, referral sources, fees collected, and any other information deemed essential for program oversight and evaluation purposes.

(h) Immunity. – A mediator under this section has judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that a mediator may be disciplined in accordance with procedures adopted by the Supreme Court. A community mediation center and its staff involved in supplying volunteer or staff mediators or other personnel to schedule cases or perform other duties under this section are immune from suit in any civil action, except in any case of willful or wanton misconduct.

(i) Confidentiality. – Any memorandum, work note, or product of the mediator and any case file maintained by a community mediation center acting under this section and any mediator certification application are confidential.

(j) Inadmissibility of Negotiations. – Evidence of any statement made and conduct occurring during a mediation under this section shall not be subject to discovery and shall be inadmissible in any proceeding in the action from which the mediation arises. Any participant in a mediation conducted under this section, including the mediator, may report to law enforcement personnel any statement made or conduct occurring during the mediation process that threatens or threatened the safety of any person or property. A mediator has discretion to warn a person whose safety or property has been threatened. No evidence otherwise discoverable is inadmissible for the reason it is presented or discussed in a mediated settlement conference or other settlement proceeding under this section.

(k) Testimony. – No mediator or neutral observer present at the mediation shall be compelled to testify or produce evidence concerning statements made and conduct occurring in or related to a mediation conducted under this section in any proceeding in the same action for any purpose, except in:

(1) Proceedings for abuse, neglect, or dependency of a juvenile, or for abuse, neglect, or exploitation of an adult, for which there is a duty to report under G.S. 7B-301 and Article 6 of Chapter 108A of the General Statutes, respectively.

(2) Disciplinary proceedings before the North Carolina State Bar or any agency established to enforce standards of conduct for mediators.

(3) Proceedings in which the mediator acts as a witness pursuant to subsection (j) of this section.

(4) Trials of a felony, during which a presiding judge may compel the disclosure of any evidence arising out of the mediation, excluding a statement made by the defendant in the action under mediation, if it is to be introduced in the trial or disposition of the felony and the judge determines that the introduction of the evidence is necessary to the proper administration of justice and the evidence cannot be obtained from any other source.

(l) Written Agreements. – Any agreement reached in mediation shall be reduced to writing and signed by the parties. A non-attorney mediator may assist parties in reducing the agreement to writing.

(m) Dismissal Fee. – Where an agreement has been reached in mediation and the case will be dismissed, the defendant shall pay to the clerk the dismissal fee of court set forth in G.S. 7A-38.7. By agreement, all or any portion of the fee may be paid by a person other than the defendant. The judge may in the judge's discretion waive the fee for good cause shown.

(n) Definitions. – As used in this section, the following definitions apply:

(1) Court. – A district court judge, a district attorney, or the designee of a district court judge or district attorney.

(2) Neutral observer. – Includes any person seeking mediator certification, any person studying any dispute resolution process, and any person acting as an interpreter."

SECTION 2. G.S. 7A-38.2(a) reads as rewritten:

"(a) The Supreme Court ~~is authorized to~~may adopt standards of conduct for mediators and other neutrals who are certified or otherwise qualified pursuant to G.S. 7A-38.1, 7A-38.3, ~~G.S.~~ 7A-38.3B, 7A-38.3D, and 7A-38.4A, or who participate in proceedings conducted pursuant to those sections. The standards may also regulate mediator and other neutral training programs. The Supreme Court may adopt procedures for the enforcement of those standards."

SECTION 3. G.S. 7A-38.2(c) reads as rewritten:

"(c) The Dispute Resolution Commission shall consist of ~~15~~ 16 members: five judges appointed by the Chief Justice of the Supreme Court, at least two of whom shall be superior court judges, and at least two of whom shall be district court judges; one clerk of superior court appointed by the Chief Justice of the Supreme Court; two mediators certified to conduct superior court mediated settlement conferences and two mediators certified to conduct equitable distribution mediated settlement conferences appointed by the Chief Justice of the Supreme Court; one certified district criminal court mediator who is a representative of a community mediation center appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not certified as mediators appointed by the President of the North Carolina State Bar, one of whom shall be a family law specialist; and three citizens knowledgeable about mediation, one of whom shall be appointed by the Governor, one by the General Assembly upon the

recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Members shall initially serve four-year terms, except that one judge, one mediator, one attorney, and the citizen member appointed by the Governor, shall be appointed for an initial term of two years. Incumbent members as of September 30, 1998 shall serve the remainder of the terms to which they were appointed. Members appointed to newly-created membership positions effective October 1, 1998 shall serve initial terms of two years. Thereafter, members shall serve three-year terms and shall be ineligible to serve more than two consecutive terms. The Chief Justice shall designate one of the members to serve as chair for a two-year term. Members of the Commission shall be compensated pursuant to G.S. 138-5.

Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents were appointed. Appointing authorities may receive and consider suggestions and recommendations of persons for appointment from the Dispute Resolution Commission, the Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association, the North Carolina Association of Professional Family Mediators, the North Carolina ~~Association~~ Conference of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court, the Conference of Chief District Court Judges, the Conference of Superior Court Judges, the Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory Committee of the Administrative Office of the Courts."

SECTION 4. The Supreme Court shall adopt rules under G.S. 7A-38.3D(d), as enacted in Section 1 of this act, and shall establish requirements for the certification or qualification under G.S. 7A-38.3D(f), as enacted by Section 1 of this act, no later than January 1, 2008.

SECTION 5. This act is effective when it becomes law and applies to mediations conducted on and after the date the Supreme Court adopts rules and requirements for the certification or qualification under Section 4 of this act.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 7:09 p.m. on the 19th day of August, 2007.

Session Law 2007-388 **Senate Bill 720**

AN ACT TO PROVIDE FOR AN OPEN ENROLLMENT PERIOD IN THE CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any section of law or any rules and regulations adopted by the Boards of Trustees to the contrary, the Retirement Systems Division of the Department of State Treasurer shall allow for an open enrollment period in the Contributory Death Benefit for Retired Members of the Teachers' and State

Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, and the Legislative Retirement System. This open enrollment period shall begin February 1, 2008, and end May 31, 2008. The Retirement Systems Division shall send notice by U.S. mail of the open enrollment period to all retirees who elected not to be covered under this benefit or who failed to make any election at the time of their retirement and shall send a second notice by U.S. mail to any such retiree who fails to make an election within 60 days of the notification of the open enrollment period. Notice, at minimum, shall consist of notification of the open enrollment period and the consequences of failure to respond within the specified time frames, informational materials explaining the benefit program and the associated costs, and a preprinted personalized enrollment application to facilitate the enrollment process indicating each individual retiree's contribution rate. The contribution rate for retirees electing coverage during the open enrollment period shall be increased by eleven and one-tenth percent (11.1%) the rate established for retirees who elected coverage when first eligible, at retirement. For retirees electing coverage during this open enrollment period, coverage shall become effective the first of the month following the month in which the election of coverage is received by the Retirement Systems Division but not before February 1, 2008. Contribution rates for coverage shall be based upon the retiree's nearest age as of the effective date of coverage and shall begin by deduction from the retiree's net monthly retirement allowance in the month in which coverage becomes effective. Coverage elected by retirees during this open enrollment period shall be subject to all other laws and rules and regulations adopted by the Board of Trustees governing the Contributory Death Benefit for Retired Members.

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

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 7:10 p.m. on the 19th day of August, 2007.

Session Law 2007-389 **Senate Bill 768**

AN ACT TO AMEND THE NORTH CAROLINA RECREATIONAL THERAPY LICENSURE ACT TO EXEMPT CERTAIN PERSONS EMPLOYED UNDER THE DIRECTION OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNTIL JULY 1, 2010.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90C-34 reads as rewritten:

"§ **90C-34. Persons and practices not affected.**

Nothing in this Chapter shall be construed to prevent or restrict:

(1) Any person qualified, registered, certified, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, or licensed to engage in another profession or occupation in this State from performing work incidental to the practice of that profession or occupation as long as that person does not represent himself or herself as a recreational therapy assistant or recreational therapist or the work to be recreational therapy or therapeutic recreation as defined by this Chapter.

(2) Any person employed as a therapeutic recreation specialist, therapeutic recreation assistant, or recreational therapist or a recreational therapy assistant by the government of the United States, if he or she provides therapeutic recreation or recreational therapy solely under the direction and control of the organization by which he or she is employed.

(3) Any person pursuing a course of study leading to a degree in recreational therapy or therapeutic recreation at an accredited college or university that meets the minimum academic requirements for a major or specialization in recreational therapy as defined by the rules and regulations of the Board.

(4) Any person fulfilling the supervised fieldwork experience required for a degree and for licensure, as defined by the rules of the Board, if the person is designated by a title that clearly indicates his or her status as a student.

(5) Any person employed as a therapeutic recreation specialist, therapeutic recreation assistant, recreational therapist, or recreational therapy assistant by the North Carolina Department of Health and Human Services, if he or she provides therapeutic recreation or recreational therapy solely under the direction and control of the Department."

SECTION 2. The Department of Health and Human Services in collaboration with the North Carolina Board of Recreational Therapy Licensure shall develop a timetable and benchmarks for achieving full compliance with the requirements of Chapter 90C of the General Statutes.

SECTION 3. This act is effective when it becomes law and expires June 30, 2010.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 7:30 p.m. on the 19th day of August, 2007.

Session Law 2007-390 **House Bill 1384**

AN ACT TO REPEAL THE STATUTORY RULE AGAINST PERPETUITIES AS IT APPLIES TO TRUSTS CREATED OR ADMINISTERED IN THIS STATE AND CODIFY THE LAW REGARDING THE POWER OF ALIENATION FOR TRUSTS CREATED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 41 of the General Statutes is amended by adding a new section to read:

"**§ 41-23. Perpetuities and suspension of power of alienation for trusts.**

(a) A trust is void if it suspends the power of alienation of trust property, as that term is defined in G.S. 36C-1-103, for longer than the permissible period. The permissible period is no later than 21 years after the death of an individual then alive or lives then in being plus a period of 21 years.

(b) If the settlor of a revocable trust, as those terms are defined in G.S. 36C-1-103, has an unlimited power to revoke or amend the trust, the permissible period under subsection (a) of this section is computed from the termination of that power.

(c) If a trust is created by exercise of a power of appointment, the permissible period under subsection (a) of this section is computed from the time the power is exercised if the power is a general power even if the power is only exercisable as a testamentary power. In the case of other powers, the permissible period is computed from the time the power is created, but facts at the time the power is exercised shall be considered in determining whether the power of alienation is suspended beyond a life or lives in being at the time of the creation of the power plus 21 years.

(d) The power of alienation is suspended only when there are no persons in being who, alone or in combination with others, can convey an absolute fee in possession of land, or full ownership of personal property.

(e) Notwithstanding subsection (a) of this section, there is no suspension of the power of alienability by a trust or by equitable interests under a trust if the trustee has the power to sell, either expressed or implied, or if there exists an unlimited power to terminate the trust in one or more persons in being.

(f) This section does not apply to a transfer in trust (i) for charitable purposes, as defined in G.S. 36C-4-405; (ii) to a literary or charitable organization; (iii) to a veterans' memorial organization; (iv) to a cemetery corporation, society, or association; or (v) as part of a pension, retirement, insurance, savings, stock bonus, profit sharing, death, disability, or similar plan established by an employer for the benefit of some or all of its employees for the purpose of accumulating and distributing to such employees the earnings or the principal, or both earnings and principal, of the trust.

(g) This section does not apply to a future interest other than a future interest in trust and, other than as set forth in this section, this section does not modify the common law of the State regarding the power of alienation in this State.

(h) The provisions of G.S. 41-15 and the common law rule against perpetuities do not apply to trusts created or administered in this State."

SECTION 2. G.S. 41-15 reads as rewritten:

"§ **41-15. Statutory rule against perpetuities.**

(a) ~~A~~ Except as otherwise provided in G.S. 41-23, a nonvested property interest is invalid unless:

(1) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) The interest either vests or terminates within 90 years after its creation.

(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) When the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under subdivision (a)(1), (b)(1), or (c)(1) of this section, the

possibility that a child will be born to an individual after the individual's death is disregarded.

(e) If, in measuring a period from the creation of a ~~trust or other~~ property arrangement, language in a governing instrument:

(1) Seeks to disallow the vesting or termination of any interest ~~or trust~~ beyond,

(2) Seeks to postpone the vesting or termination of any interest ~~or trust~~ until, or

(3) Seeks to operate in effect in any similar fashion upon,

the later of (i) the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the ~~trust or other~~ property arrangement or (ii) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the ~~trust or other~~ property arrangement, that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives."

SECTION 3. This act is effective when it becomes law and applies to all trusts created before, on, or after that date.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 7:31 p.m. on the 19th day of August, 2007.

Session Law 2007-391 **House Bill 1743**

AN ACT TO CLARIFY THE PERJURY PROVISION IN CAMPAIGN FINANCE STATUTES; TO PROVIDE CIVIL PENALTIES FOR DECEPTIVE LATE FILING OF CAMPAIGN REPORTS; TO REPEAL THE THREE-THOUSAND-DOLLAR PRESUMPTION OF A COMMITTEE'S MAJOR PURPOSE; TO PROVIDE FOR EARLIER DISTRIBUTION OF THE JUDICIAL VOTER GUIDE; TO CORRECT AN ERROR IN THE ELECTIONS OATH STATUTE; TO PROVIDE FOR PARTICIPATION IN THE CENSUS REDISTRICTING DATA PROGRAM AND FOR CONSISTENCY OF ELECTION DATA; TO ALLOW BALLOTS TO BE COMBINED; TO CORRECT AND MAKE CONSISTENT THE DESIGNATION OF MULTICOUNTY DISTRICTS IN THE BALLOT ACCESS STATUTES; TO PROVIDE FOR A MISDEMEANOR PENALTY FOR BREACHING BALLOT SECRECY; TO PROVIDE THAT A BALLOT NEED NOT HAVE A WRITE-IN SPACE IF NO WRITE-INS ARE ALLOWED; TO CORRECT A DATE REFERENCE IN THE CERTIFICATION STATUTE; TO EXTEND THE PROVISION FOR RECASTING LOST VOTES; TO CLARIFY THAT THE BUFFER ZONE LAW APPLIES TO ONE-STOP SITES; TO EXTEND THE LIMITATIONS ON POLITICAL ACTIVITIES FOR ELECTION BOARD MEMBERS TO ELECTION BOARD EMPLOYEES; TO REQUIRE THAT BOARDS OF ELECTIONS BE PROVIDED MAPS OF SANITARY DISTRICTS; TO PROVIDE MISDEMEANOR PENALTIES FOR CERTAIN ABUSES AT VOTER REGISTRATION DRIVES; TO PROVIDE FOR A FELONY PENALTY FOR INSTRUCTING OR COERCING NONCITIZEN VOTING; TO UPDATE THE REPORTING OF FELONY CONVICTIONS; TO CLARIFY THE PUBLIC RECORD STATUS OF CERTAIN VOTER REGISTRATION INFORMATION;

TO BROADEN THE STATUTE REGARDING CORRECTING VOTER REGISTRATION FORMS; TO APPLY THE IDENTIFICATION REQUIREMENT TO VOTERS WHOSE DRIVERS LICENSE NUMBERS OR SOCIAL SECURITY NUMBERS CANNOT BE MATCHED IN A COMPUTER CHECK; TO PROVIDE FOR NOTICE IN THE APPOINTMENT OF OBSERVERS AND RUNNERS; TO PROHIBIT TAKING THE PICTURE OF A VOTER WHILE INSIDE THE VOTING ENCLOSURE; TO MAKE THE STATE BOARD OF ELECTIONS RESPONSIBLE FOR BALLOT CODING; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO COMPLY WITH SPECIFICATIONS FOR BALLOT PRINTERS AND TO MAINTAIN THEIR SOFTWARE WARRANTIES; TO FACILITATE VOTER REGISTRATION BY FORMER FELONS UPON THE COMPLETION OF THEIR SENTENCE AND THE RESTORATION OF THEIR CITIZENSHIP; AND TO REQUIRE THAT A PERSON APPOINTED TO FILL A VACANCY IN AN ELECTIVE OFFICE BE QUALIFIED TO VOTE FOR THAT OFFICE IF AN ELECTION WAS HELD ON THE DATE OF APPOINTMENT; AND TO MAKE OTHER AMENDMENTS TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-278.32 reads as rewritten:

"§ **163-278.32. Statements under oath.**

Any statement required to be filed under this Article shall be signed and certified as true and correct by the individual, media, candidate, treasurer or others required to file it, and shall be certified as true and correct to the best of the knowledge of the individual, media, candidate, treasurer or others filing the statement; provided further that the candidate shall certify as true and correct to the best of his knowledge the organizational report and appointment of treasurer filed for the candidate or the candidate's principal campaign committee. ~~Any~~ A certification under this Article shall be treated as under oath, and any person making a certification under this Article knowing the information to be untrue ~~may be prosecuted for perjury under G.S. 14-209.~~ is guilty of a Class I felony."

SECTION 1.(b) G.S. 163-278.27 is amended by adding a new subsection to read:

"(a1) A violation of G.S. 278.32 by making a certification knowing the information to be untrue is a Class I felony."

SECTION 1.(c) This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

SECTION 2.(a) G.S. 163-278.34(a) reads as rewritten:

"(a) Civil Penalties for Late Filing. – Except as provided in G.S. 163-278.9 and G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

If the form is filed by mail, no civil late penalty shall be assessed for any day after the date of postmark. No civil late penalty shall be assessed for any day when the Board office at which the report is due is closed. The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by mail, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

If the Board determines by clear and convincing evidence that the late filing constitutes a willful attempt to conceal contributions or expenditures, the Board may assess a civil penalty in an amount to be determined by that Board, plus the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the contributions and expenditures willfully attempted to be concealed."

SECTION 2.(b) This section is effective when this act becomes law and applies to all offenses committed on or after that date.

SECTION 3. G.S. 163-278.6(14) reads as rewritten:

"(14) The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:

a. Is controlled by a candidate;

b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;

c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or

d. Has as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

~~An entity is rebuttably presumed to have as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates if it contributes or expends or both contributes and expends during an election cycle more than three thousand dollars ($3,000). The presumption may be rebutted by showing that the contributions and expenditures giving rise to the presumption were not a major part of activities of the organization during the election cycle. Contributions to referendum committees and expenditures to support or oppose ballot issues shall not be facts considered to give rise to the presumption or otherwise be used in determining whether an entity is a political committee.~~

If the entity qualifies as a "political committee" under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. A political committee ceases to exist

when it winds up its operations, disposes of its assets, and files its final report.

Special definitions of "political action committee" and "candidate campaign committee" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z."

SECTION 4.(a) G.S. 163-278.69(a) reads as rewritten:

"(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that explains the functions of the appellate courts and the laws concerning the election of appellate judges, the purpose and function of the Public Campaign Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The distribution shall occur no more than ~~14~~28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the primary and no more than ~~14~~28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the general election."

SECTION 4.(b) If House Bill 1517 of the 2007 Session of the General Assembly becomes law, G.S. 163-278.99E(a), as enacted in Section 1 of that bill, reads as rewritten:

"(a) Voter Guide. – The Board shall publish a Voter Guide that explains the functions of office as defined in G.S. 163-278.96(12) and the laws concerning the election of the Council of State, the purpose and function of the Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The State Board of Elections shall maintain a list of the addresses from which mailed Voter Guides are returned as undeliverable. That list shall be available for public inspection. The distribution shall occur no more than ~~14~~28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the primary and no more than ~~14~~28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the general election."

SECTION 5. G.S. 163-33.1 reads as rewritten:

"§ **163-33.1. Power of chairman to administer oaths.**

The chairman of the county board of elections is authorized to administer to election officials specified in ~~G.S. 163-80~~ Articles 4, 5, and 20 of this Chapter the required oath, and may also administer the required oath to witnesses appearing before the county board at a duly called public hearing."

SECTION 6.(a) G.S. 163-132.1B reads as rewritten:

"§ **163-132.1B. Participation in 2010 Census Redistricting Data Program of the United States Bureau of the Census.**

(a) Purpose. – The State of North Carolina shall participate in the 2010 Census Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States Bureau of the Census, so that the State will receive 2010 Census data by voting precinct and be able to revise districts at all levels without splitting precincts and in compliance with the United States and North Carolina Constitutions and the Voting Rights Act of 1965, as amended.

(a1) Reporting of Voting Tabulation Districts. – The Executive Director of the State Board of Elections shall report to the Bureau of the Census as this State's voting tabulation districts the voting precincts as of January 1, 2008. Before making that report, the Executive Director shall consult with the Legislative Services Office concerning the accuracy of the voting precincts to be reported. The Legislative Services Office shall

submit to the Executive Director its opinion as to whether the description of the precincts to be reported to the Bureau of the Census is accurate. The Executive Director shall submit the report to the Bureau of the Census in time to comply with the deadlines of that Bureau for the 2010 Census Redistricting Data Program.

(a2) Reporting From Unchanged Voting Tabulation Districts. – After January 1, 2008, every county board of elections shall report all election returns by voting tabulation districts as required by G.S. 163-132.5G. For purposes of this section and G.S. 163-132.5G, "voting tabulation districts" shall be the precincts as of January 1, 2008. No county board of elections may alter the voting tabulation districts reported to the Census Bureau by the Executive Director of the State Board of Elections. The county board of elections may change the boundaries of the county's precincts so that those precincts differ from the county's voting tabulation districts, but only to the extent permitted by G.S. 163-132.3.

(b) Additional Rules. – In addition to directives promulgated by the Executive Director of the State Board of Elections under G.S. 163-132.4, the Legislative Services Commission may promulgate rules to implement this section."

SECTION 6.(b) G.S. 163-132.3 reads as rewritten:

"§ **163-132.3. Alterations to approved precinct boundaries.**

(a) No county board of elections may change any precinct boundary ~~except in one of the following ways:~~

~~(1) By dividing an existing precinct into one or more new precincts, without involving other existing precincts. The lines on which the precincts are divided shall follow census blocks established under the latest U.S. Census.~~

~~(2) By combining one or more existing precincts into a new precinct. If one or more precincts are combined into a single precinct, the new precinct shall not be divided until at least four years after the effective date of the combination.~~

~~(3) By moving a precinct boundary that does not follow a census block boundary established under the latest U.S. Census so that that precinct boundary does follow such a census block boundary.~~

unless the Executive Director of the State Board of Elections determines that the county board has a current capability of complying with G.S. 163-132.1B(a2) by reporting all election returns by voting tabulation district as required by G.S. 163-132.5G. If the Executive Director so determines, the county board may make any changes to precinct boundaries, provided that ~~All~~ all proposed new precincts shall consist solely of contiguous territory. The State Board of Elections may set uniform standards for precinct boundaries, which the county boards of elections shall follow. The county board of elections shall report every change in precinct boundary to the Executive Director in a format required by the Executive Director.

~~This section does not prohibit a county from continuing to use precincts that were allowed under the Combined Reporting Unit provisions of G.S. 163-132.1(c)(6).~~

The county boards of elections shall report precinct boundary changes ~~by filing with the Legislative Services Office on current official census maps or on other maps or electronic databases approved by the Executive Director the new boundaries of these precincts.~~ to the Executive Director in the manner the Executive Director directs. ~~The Executive Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof.~~ No newly created or altered precinct

boundary is effective until approved by the Executive Director of the State Board as being in compliance with this section.

(b) The Executive Director of the State Board of Elections ~~and the Legislative Services Office~~ shall examine the maps of the proposed new or altered precincts and any required written descriptions. ~~After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Director of the State Board of Elections its opinion as to whether all of the proposed precinct boundaries are in compliance with subsection (a) of this section, with notations as to where those boundaries do not comply with these standards.~~ If the Executive Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.

(c) If the Executive Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection (a) of this section, the Executive Director shall not approve those precinct boundaries. The Executive Director shall notify the county board of elections of his disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for their disapproval.

(d) Repealed by Session Laws 2004-127, s. 1(a), effective August 15, 2004, and applicable to precincts established or changed on or after that date.

~~(e) During the period beginning October 1, 2002, and ending August 15, 2004, no county board of elections may change any precinct boundary. However, a county that has a precinct line that does not follow a 2000 Census Block Boundary may change that precinct line to conform to the way that precinct is shown on the General Assembly's redistricting database, provided the total population of the area moved from one precinct to another is not greater than ten percent (10%) of the total population of either precinct. A county board of elections proposing a change to a precinct during this period shall submit that change to the Legislative Services Office, which shall examine the proposed change and give its opinion of its compliance with this subsection to the Executive Director of the State Board of Elections. If the proposed change is in compliance with this subsection, the Executive Director shall approve it.~~"

SECTION 6.(c) G.S. 163-132.5G reads as rewritten:

"§ **163-132.5G. Voting data maintained by ~~precinct.~~voting tabulation district.**

~~To the extent that it can do so without compromising the secrecy of an individual's ballot, each~~ Each county board of elections shall maintain voting data by ~~precinct~~ voting tabulation district as provided in G.S. 163-132.1B so that ~~precinct~~ voting tabulation district returns for each item on the ballot shall include the votes cast by all residents of the ~~precinct~~ voting tabulation district who ~~voted by provisional ballot and by absentee ballot, both mail and one-stop.~~ voted, regardless of where they voted. The county board shall not be required to report ~~provisional and absentee voting data by precinct~~ returns by voting tabulation district for voters who voted other than at their precinct voting place on election day until 60 days after the election. In reporting returns, the county board shall not compromise the secrecy of an individual's ballot. The 60-day deadline for reporting returns by voting tabulation district does not relieve the county board of the duty to report all returns as soon as practicable after the election according to other categories specified by the State Board of Elections. The State Board of Elections shall adopt rules for the enforcement of this ~~section with the goal that all voting data shall be reported by precinct by the 2006 election.~~section."

SECTION 6.(d) G.S. 163-165.7(a)(3) reads as rewritten:

"(3) That the voting system must have the capacity to include in ~~precinct~~ voting tabulation district returns the votes cast by voters outside of the voter's ~~precinct~~ voting tabulation district as required by G.S. 163-132.5G."

SECTION 6.(e) G.S. 163-132.5F reads as rewritten:

"§ **163-132.5F. U.S. Census data by ~~precinct.~~ voting tabulation district.**

The State shall request the U.S. ~~Census~~ Bureau of the Census for each decennial census to provide summaries of census data by ~~precinct~~ voting tabulation district and shall participate in any U.S. Bureau of the Census' program to effectuate this provision."

SECTION 6.(f) Subsections 7(b) through 7(e) of this section become effective January 1, 2008. The remainder of this section is effective when this act becomes law.

SECTION 6.(g) This section becomes effective only if any funds necessary to implement it are appropriated.

SECTION 7. Article 14A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ **163-165.5B. Ballots may be combined.**

Notwithstanding any other statute or local act, a county board of elections, with the approval of the State Board of Elections, may combine ballot items on the same official ballot."

SECTION 8.(a) G.S. 163-122(a)(2) reads as rewritten:

"(2) If the office is a district office ~~comprised of two or more counties,~~ under the jurisdiction of the State Board of Elections under G.S. 163-182.4(b), file written petitions with the State Board of Elections supporting ~~his~~ that voter's candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of registered voters in the district as reflected by the voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification and deadline for submission to the county board shall be the same as specified in (1) above."

SECTION 8.(b) G.S. 163-123(c)(2) reads as rewritten:

"(2) If the office is a district office ~~comprising all or part of two or more counties,~~ under the jurisdiction of the State Board of Elections under G.S. 163-182.4(b), file written petitions with the State Board of Elections supporting ~~his~~ that applicant's candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before noon on the 90th day before the general election and must be signed by 250 qualified voters. Before being filed with the State Board of Elections, each petition shall be presented to the board of elections of the county in which the signatures were obtained. A petition presented to a county board of elections shall contain only names of voters registered in that county who are eligible to vote for that office. The chairman of the county board shall examine the names

on the petition and the procedure for certification shall be the same as specified in subdivision (1)."

SECTION 9.(a) G.S. 163-165.1(e) reads as rewritten:

"(e) Voted ballots and paper and electronic records of individual voted ballots shall be treated as confidential, and no person other than elections officials performing their duties may have access to voted ballots or paper or electronic records of individual voted ballots except by court order or order of the appropriate board of elections as part of the resolution of an election protest or investigation of an alleged election irregularity or violation. Voted ballots and paper and electronic records of individual voted ballots shall not be disclosed to members of the public in such a way as to disclose how a particular voter voted, unless a court orders otherwise. Any person who has access to an official voted ballot or record and knowingly discloses in violation of this section how an individual has voted that ballot is guilty of a Class 1 misdemeanor."

SECTION 9.(b) G.S. 163-274 reads as rewritten:

"§ **163-274. Certain acts declared misdemeanors.**

(a) Class 2 Misdemeanors. – Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this ~~section~~ subsection to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

(1) For any person to fail, as an officer or as a judge or chief judge of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is his duty under the law to prepare, or to distribute the same as required by law, or to perform any other duty imposed upon him within the time and in the manner required by law;

(1a) For any member, director, or employee of a board of elections to alter a voter registration application or other voter registration record without either the written authorization of the applicant or voter or the written authorization of the State Board of Elections;

(2) For any person to continue or attempt to act as a judge or chief judge of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such removal;

(3) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections;

(4) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any chief judge or judge of election in the performance of his duties as imposed by law;

(5) For any person to bet or wager any money or other thing of value on any election;

(5a) Repealed by Session Laws 1999-455, s. 21, applicable to elections held on or after January 1, 2000.

(6) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or

consider or intend to cast, or not to cast, or which he may have failed to cast;

(7) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge;

(8) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election;

(9) For any person to give or promise, in return for political support or influence, any political appointment or support for political office;

(10) For any chairman of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns thereof;

(11) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement to a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees therefor;

(12) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to him is such as he desires; or

(13) Except as authorized by G.S. 163-82.15, for any person to provide false information, or sign the name of any other person, to a written report under G.S. 163-82.15.

(b) Class 1 Misdemeanor. – Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this subsection to be unlawful shall be guilty of a Class 1 misdemeanor. It shall be unlawful for any person who has access to an official voted ballot or record to knowingly disclose in violation of G.S. 163-165.1(e) how an individual has voted that ballot."

SECTION 9.(c) This section becomes effective December 1, 2007, and applies to any offense occurring on or after that date.

SECTION 10. G.S. 163-165.5(5) reads as rewritten:

"§ **163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

...

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123. No space for write-ins is required unless a write-in candidate has qualified under G.S. 163-123 or unless the ballot item is exempt from G.S. 163-123.

...."

SECTION 11. G.S. 163-182.15(2) reads as rewritten:

"(2) The certificate shall be issued ~~10 days~~ on the tenth day after the final decision of the State Board, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-182.14."

SECTION 12. G.S. 163-182.12 reads as rewritten:

"§ **163-182.12. Authority of State Board of Elections over protests.**

The State Board of Elections may consider protests that were not filed in compliance with G.S. 163-182.9, may initiate and consider complaints on its own motion, may intervene and take jurisdiction over protests pending before a county board, and may take any other action necessary to assure that an election is determined without taint of fraud or corruption and without irregularities that may have changed the result of an election. Where a known group of voters cast votes that were lost beyond ~~retrieval,~~ retrieval or where a known group of voters was given an incorrect ballot style, the State Board of Elections may authorize a county board of elections to allow those voters to recast their ~~ballots~~ votes during a period of two weeks after the ~~election.~~ canvass by the State Board of Elections required in G.S. 163-182.5(c). If there is no State Board canvass after the election, the State Board may authorize the county board to allow the recasting of votes during the two weeks after the county canvass set in G.S. 163-182.5(a). If the State Board approves a recasting of votes under this section, any procedures the county board uses to contact those voters and allow them to recast their votes shall be subject to approval by the State Board. Those recast votes shall be added to the returns and included in the canvass. The recasting of those votes shall not be deemed a new election for purposes of G.S. 163-182.13."

SECTION 13. G.S. 163-166.4 is amended by adding a new subsection to read:

"(d) Buffer Zone at One-Stop Sites. – The provisions of this section shall apply to one-stop voting sites in G.S. 163-227.2, except that the notice in subsection (c) of this section shall be provided no later than 10 days before the opening of one-stop voting at the site."

SECTION 14.(a) Article 4A of Chapter 163 of the General Statutes reads as rewritten:

"Article 4A.

"Political Activities by Board of Elections ~~Members.~~Members and Employees.

"§ **163-38. Applicability of Article.**

This Article applies to members and employees of the State Board of Elections and of each county and municipal board of elections. With regard to prohibitions in this Article concerning candidates, referenda, and committees, the prohibitions do not apply if the candidate or referendum will not be on the ballot in an area within the jurisdiction of the board, or if the political committee or referendum committee is not involved with an election or referendum that will be on the ballot in an area within the jurisdiction of the board.

"§ **163-39. Limitation on political activities.**

No individual subject to this Article shall:

(1) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the nomination or election of one or more clearly identified candidates for public office.

(2) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the passage of one or more clearly identified referendum proposals.

(3) Solicit contributions for a candidate, political committee, or referendum committee.

Individual expressions of opinion, support, or opposition not intended for general public distribution shall not be deemed a violation of this Article. Nothing in this Article shall be deemed to prohibit participation in a political party convention as a delegate. Nothing in this Article shall be deemed to prohibit a board member or board employee from making a contribution to a candidate, political committee, or referendum committee. Nothing in this Article shall be deemed to prohibit a board member or board employee from advising other government entities as to technical matters related to election administration or revision of electoral district boundaries.

"§ **163-40. Violation may be ground for removal.**

A violation of this Article may be a ground to remove a State Board of Elections member under G.S. 143B-16, a county board of elections member under G.S. 163-22(c), or a municipal board of elections member under G.S. 163-280(i). A violation of this Article may be a ground for dismissal of an employee of the State Board of Elections or of a county board of elections. No criminal penalty shall be imposed for a violation of this Article.

"§ **163-40.1. Definitions.**

The provisions of Article 22A of this Chapter apply to the definition and proof of terms used in this Article."

SECTION 14.(b) This section becomes effective January 1, 2008.

SECTION 15. G.S. 130A-50(a) reads as rewritten:

"(a) The Department shall send a copy of the resolution creating the sanitary district to the ~~county~~ board or boards of county commissioners of the county or counties in which all or part of the district is located. The Department shall file or cause to be filed with the county board or boards of elections in the same county or counties a map of the district. With the map it shall include supporting documents. That map and documents shall be filed within 10 business days after the creation of the district and amended within 10 days after any change to the boundaries of the district. The board or boards of commissioners shall hold a meeting or joint meeting for the purpose of electing the members of the sanitary district board."

SECTION 16.(a) G.S. 163-82.6(a) reads as rewritten:

"(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163-82.3 if the applicant submits the form by mail, facsimile transmission, transmission of a scanned document, or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election.

(a1) Misdemeanors. – It shall be a Class 2 misdemeanor for any person to do any of the following:

(1) ~~to~~ To communicate to the applicant acceptance of ~~that~~ the delegation described in subsection (a) of this section and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision

(1) or (2) of subsection (c) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election.

(2) ~~It shall be a Class 2 misdemeanor for any person to~~ To sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(3) To change a person's information on a voter registration form prior to its delivery to a county board of elections.

(4) To coerce a person into marking a party affiliation other than the party affiliation the person desires.

(5) To offer a person a voter registration form that has a party affiliation premarked unless the person receiving the form has requested the premarking."

SECTION 16.(b) G.S. 163-274 is amended by adding a new subdivision to read:

"(14) For any person to commit any of the voter registration violations set forth in G.S. 163-82.6(a1)."

SECTION 16.(c) This section becomes effective December 1, 2007, and applies to any offense committed on or after that date.

SECTION 17.(a) G.S. 163-275 is amended by adding a new subdivision to read:

"(18) For any person, knowing that a person is not a citizen of the United States, to instruct or coerce that person to register to vote or to vote."

SECTION 17.(b) This section becomes effective December 1, 2007, and applies to any offense committed on or after that date.

SECTION 18. G.S. 163-82.14(c)(1) reads as rewritten:

"(1) Report of Conviction Within the State. – The ~~clerk of superior court,~~ State Board of Elections, on or before the fifteenth day of every month, shall report to the county board of elections of that county the name, county of residence, and residence address if available, of each individual against whom a final judgment of conviction of a felony has been entered in that county in the preceding calendar month. ~~Any county board of elections receiving such a report about an individual who is a resident of another county in this State shall forward a copy of that report to the board of elections of that county as soon as possible.~~"

SECTION 19. G.S. 163-82.10(a) reads as rewritten:

"(a) Official Record. – The State voter registration system is the official voter registration list for the conduct of all elections in the State. A completed and signed registration application form, if available, described in G.S. 163-82.3, once approved by the county board of elections, becomes backup to the official registration record of the voter. ~~Electronically captured images of the signatures of voters, full~~ Full or partial social security numbers, dates of birth, the identity of the public agency at which the voter registered under G.S. 163-82.20, and drivers license numbers that may be generated in the voter registration process, by either the State Board of Elections or a county board of elections, are confidential and shall not be considered public records and subject to disclosure to the general public under Chapter 132 of the General

Statutes. Cumulative data based on those items of information may be publicly disclosed as long as information about any individual cannot be discerned from the disclosed data. Disclosure of ~~drivers license numbers or dates of birth~~ information in violation of this subsection shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of ~~drivers license numbers or dates of birth~~ information in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The signature of the voter, either on the paper application or an electronically captured image of it, may be viewed by the public but may not be copied or traced except by election officials for election administration purposes. Any such copy or tracing is not a public record. The county board of elections shall maintain custody of any paper hard copy registration records of voters in the county and shall keep them in a place where they are secure."

SECTION 20. G.S. 163-82.4(e) reads as rewritten:

"(e) Correcting Registration Forms. – If the voter fails to ~~answer the question set out in subdivision (1) of subsection (d) of this section,~~ complete any required item on the voter registration form but provides enough information on the form to enable the county board of elections to identify and contact the voter, the voter shall be notified of the omission and given the opportunity to complete the form ~~at any time before casting a vote in the election on election day.~~ at least by 5:00 P.M. on the day before the county canvass as set in G.S. 163-182.5(b). If the voter corrects that omission within that ~~time, the voter may vote in the election.~~time and is determined by the county board of elections to be eligible to vote, the board shall permit the voter to vote. If the information is not corrected by election day, the voter shall be allowed to vote a provisional official ballot. If the correct information is provided to the county board of elections by at least 5:00 P.M. on the day before the county canvass, the board shall count any portion of the provisional official ballot that the voter is eligible to vote."

SECTION 21.(a) G.S. 163-166.12 reads as rewritten:

"§ **163-166.12. Requirements for certain voters who register by mail.**

(a) Voting in Person. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, shall present to a local election official at a voting place before voting there one of the following:

(1) A current and valid photo identification.

(2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b) Voting Mail-In Absentee. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, in order to cast a mail-in absentee vote, shall submit with the mailed-in absentee ballot one of the following:

(1) A copy of a current and valid photo identification.

(2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b1) The county board of elections shall note the type of identification proof submitted by the voter under the provisions of subsection (a) or (b) of this section and may dispose of the tendered copy of identification proof as soon as the type of proof is noted in the voter registration records.

(b2) Voting When Identification Numbers Do Not Match. – Regardless of whether an individual has registered by mail or by another method, if the individual has provided with the registration form a drivers license number or last four digits of a Social Security number but the computer validation of the number as required by G.S. 163-82.12 did not result in a match, and the number has not been otherwise validated by the board of elections, in the first election in which the individual votes that individual shall submit with the ballot the form of identification described in subsection (a) or subsection (b) of this section, depending upon whether the ballot is voted in person or absentee. If that identification is provided and the board of elections does not determine that the individual is otherwise ineligible to vote a ballot, the failure of identification numbers to match shall not prevent that individual from registering to vote and having that individual's vote counted. If the individual registers and votes under G.S. 163-82.6A, the identification documents required in that section, rather than those described in subsection (a) or (b) of this section, apply.

(c) The Right to Vote Provisionally. – If an individual is required under subsection ~~(a) or (b)~~ (a), (b), or (b2) of this section to present identification in order to vote, but that individual does not present the required identification, that individual may vote a provisional official ballot. If the voter is at the voting place, the voter may vote provisionally there without unnecessary delay. If the voter is voting by mail-in absentee ballot, the mailed ballot without the required identification shall be treated as a provisional official ballot.

(d) Exemptions. – This section does not apply to any of the following:

(1) An individual who registers by mail and submits as part of the registration application either of the following:

a. A copy of a current and valid photo identification.

b. A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(2) An individual who registers by mail and submits as part of the registration application the individual's drivers license number or at least the last four digits of the individual's social security number where an election official matches either or both of the numbers submitted with an existing State identification record bearing the same number, name, and date of birth contained in the submitted registration. If any individual's number does not match, the individual shall provide identification as required in subsection (b2) of this section in the first election in which the individual votes.

(3) An individual who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.

(4) An individual who is entitled to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act.

(5) An individual who is entitled to vote otherwise than in person under any other federal law."

SECTION 21.(b) G.S. 163-82.12 reads as rewritten:

"§ **163-82.12. Promulgation of guidelines relating to computerized voter registration.**

The State Board of Elections shall make all guidelines necessary to administer the statewide voter registration system established by this Article. All county boards of

elections shall follow these guidelines and cooperate with the State Board of Elections in implementing guidelines. These guidelines shall include provisions for all of the following:

(1) Establishing, developing, and maintaining a computerized central voter registration file.

(2) Linking the central file through a network with computerized voter registration files in each of the counties.

(3) Interacting with the computerized drivers license records of the Division of Motor Vehicles and with the computerized records of other public agencies authorized to accept voter registration applications.

(4) Protecting and securing the data.

(5) Converting current voter registration records in the counties in computer files that can be used on the statewide computerized registration system.

(6) Enabling the statewide system to determine whether the voter identification information provided by an individual is valid.

(7) Enabling the statewide system to interact electronically with the Division of Motor Vehicles system to validate identification information.

(8) Enabling the Division of Motor Vehicles to provide real-time interface for the validation of the drivers license number and last four digits of the social security number.

(8b) Notifying voter-registration applicants whose drivers license or last four digits of social security number does not result in a validation, attempting to resolve the discrepancy, initiating investigations under G.S. 163-33(3) or challenges under Article 8 of this Chapter where warranted, and notifying any voters of the requirement under G.S. 163-166.2(b2) to present identification when voting.

(9) Enabling the statewide system to assign a unique identifier to each legally registered voter in the State.

(10) Enabling the State Board of Elections to assist the Division of Motor Vehicles in providing to the jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records.

These guidelines shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the guidelines and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those guidelines shall be made available to the public upon request or otherwise by the State Board."

SECTION 22. G.S. 163-45 reads as rewritten:

"§ **163-45. Observers; appointment.**

The chair of each political party in the county shall have the right to designate two observers to attend each voting place at each primary and election and such observers may, at the option of the designating party chair, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chair contains the names of all persons authorized to represent such chair's political party. Not more than two observers from the same political party shall be permitted in the voting enclosure at any time. This right shall not

extend to the chair of a political party during a primary unless that party is participating in the primary. In any election in which an unaffiliated candidate is named on the ballot, the candidate or the candidate's campaign manager shall have the right to appoint two observers for each voting place consistent with the provisions specified herein. Persons appointed as observers must be registered voters of the county for which appointed and must have good moral character. No person who is a candidate on the ballot in a primary or election may serve as an observer or runner in that primary or election. Observers shall take no oath of office.

Individuals authorized to appoint observers must submit in writing to the chief judge of each precinct a signed list of the observers appointed for that precinct. Individuals authorized to appoint observers must, prior to 10:00 A.M. on the fifth day prior to any primary or general election, submit in writing to the chair of the county board of elections two signed copies of a list of observers appointed by them, designating the precinct for which each observer is appointed. Before the opening of the voting place on the day of a primary or general election, the chair shall deliver one copy of the list to the chief judge for each affected precinct. The chair shall retain the other copy. The chair, or the chief judge and judges for each affected precinct, may for good cause reject any appointee and require that another be appointed. The names of any persons appointed in place of those persons rejected shall be furnished in writing to the chief judge of each affected precinct no later than the time for opening the voting place on the day of any primary or general election, either by the chair of the county board of elections or the person making the substitute appointment.

If party chairs appoint observers at one-stop sites under G.S. 163-227.2, those party chairs shall provide a list of the observers appointed before 10:00 A.M. on the fifth day before the observer is to observe.

An observer shall do no electioneering at the voting place, and shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting a ballot, but, subject to these restrictions, the chief judge and judges of elections shall permit the observer to make such observation and take such notes as the observer may desire.

Whether or not the observer attends to the polls for the requisite time provided by this section, each observer shall be entitled to obtain at times specified by the State Board of Elections, but not less than three times during election day with the spacing not less than one hour apart, a list of the persons who have voted in the precinct so far in that election day. Counties that use an "authorization to vote document" instead of poll books may comply with the requirement in the previous sentence by permitting each observer to inspect election records so that the observer may create a list of persons who have voted in the precinct so far that election day; each observer shall be entitled to make the inspection at times specified by the State Board of Elections, but not less than three times during election day with the spacing not less than one hour apart.

Instead of having an observer receive the voting list, the county party chair may send a runner to do ~~so.~~ so, even if an observer has not been appointed for that precinct. The runner may be the precinct party chair or any person named by the county party chair. Each county party chair using runners in an election shall provide to the county board of elections before 10:00 A.M. on the fifth day before election day a list of the runners to be used. That party chair must notify the chair of the county board of elections or the board chair's designee of the names of all runners to be used in each precinct before the runner goes to the precinct. The runner may receive a voter list from the precinct on the same schedule as an observer. Whether obtained by observer or runner, each party is

entitled to only one voter list at each of the scheduled times. No runner may enter the voting enclosure except when necessary to announce that runner's presence and to receive the list. The runner must leave immediately after being provided with the list."

SECTION 23. G.S. 163-166.3 reads as rewritten:

"§ **163-166.3. Limited access to the voting enclosure.**

(a) Persons Who May Enter Voting Enclosure. – During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.

(2) An observer appointed pursuant to G.S. 163-45.

(2a) A runner appointed pursuant to G.S. 163-45, but only to the extent necessary to announce that runner's presence and to receive the voter list as provided in G.S. 163-45.

(3) A person seeking to vote in that voting place on that day but only while in the process of voting or seeking to vote.

(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S. 163-88.

(5) A person authorized under G.S. 163-166.8 to assist a voter but, except as provided in subdivision (6) of this section, only while assisting that voter.

(6) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.

(7) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.

(8) Any other person determined by election officials to have an urgent need to enter the voting enclosure but only to the extent necessary to address that need.

(b) Photographing Voters Prohibited. – No person shall photograph, videotape, or otherwise record the image of any voter within the voting enclosure, except with the permission of both the voter and the chief judge of the precinct. If the voter is a candidate, only the permission of the voter is required. This subsection shall also apply to one-stop sites under G.S. 163-227.2. This subsection does not apply to cameras used as a regular part of the security of the facility that is a voting place or one-stop site.

(c) Photographing Voted Ballot Prohibited. – No person shall photograph, videotape, or otherwise record the image of a voted official ballot for any purpose not otherwise permitted under law."

SECTION 24.(a) G.S. 163-165.3 reads as rewritten:

"§ **163-165.3. Responsibilities for preparing official ballots.**

(a) State Board ~~to Certify Official Ballots and Instructions to Voters.~~ Responsibilities. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

(1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.

(2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.

(3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.

(4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.

(5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.

(6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

The State Board shall be responsible for all ballot coding and shall contract with a qualified vendor or supervise trained election staff to produce the data necessary for equipment programming.

(b) County Board ~~to Prepare and Produce Official Ballots and Instructions.~~ Responsibilities. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. – The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163-114 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163-114 will count for the replacement candidate.

(d) Special Ballots. – The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board."

SECTION 24.(b) This section becomes effective only if any funds necessary to implement it are appropriated.

SECTION 25. G.S. 163-165.9 reads as rewritten:

"§ **163-165.9. Voting systems: powers and duties of county board of elections.**

(a) Before approving the adoption and acquisition of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Recommend to the board of county commissioners which type of voting system should be acquired by the county.

(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the type of voting system to be recommended and also witness a demonstration of at least one other type of voting system certified by the State Board of Elections.

(3) Test, during an election, the proposed voting system in at least one precinct in the county where the voting system would be used if adopted.

(b) After the acquisition of any voting system, the county board of elections shall comply with any requirements of the State Board of Elections regarding training and support of the voting ~~system.~~system by completing all of the following:

(1) The county board of elections shall comply with all specifications of its voting system vendor for ballot printers. The county board of elections is authorized to contract with noncertified ballot printing vendors, so long as the noncertified ballot printing vendor meets all specifications and all quality assurance requirements as set by the State Board of Elections.

(2) The county board of elections shall maintain software license and maintenance agreements necessary to maintain the warranty of its voting system."

SECTION 26.(a) Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-82.20A. Voter registration upon restoration of citizenship.**

The State Board of Elections, the Department of Correction, and the Administrative Office of the Courts shall jointly develop and implement educational programs and procedures for persons to apply to register to vote at the time they are restored to citizenship and all filings required have been completed under Chapter 13 of the General Statutes. Those procedures shall be designed to do both of the following:

(1) Inform the person that the restoration of rights removes the person's disqualification from voting, but that in order to vote the person must register to vote.

(2) Provide an opportunity to that person to register to vote.

At a minimum, the program shall include a written notice to the person whose citizenship has been restored, informing that person that the person may now register to vote, with a voter registration form enclosed with the notice."

SECTION 26.(b) This section becomes effective October 1, 2007.

SECTION 27.(a) Chapter 128 of the General Statutes is amended by adding a new section to read:

"**§ 128-7.2. Qualifications for appointment to fill vacancy in elective office.**

No person is eligible for appointment to fill a vacancy in any elective office, whether State or local, unless that person would have been qualified to vote as an elector for that office if an election were to be held on the date of appointment. This section is intended to implement the provisions of Section 8 of Article VI of the Constitution."

SECTION 27.(b) G.S. 163-11 is amended by adding a new subsection to read:

"(e) No person is eligible for appointment to fill a vacancy in the Senate or the House of Representatives under this section, unless that person would have been qualified to vote as an elector for that office if an election were to be held on the date of appointment. This section is intended to implement the provisions of Section 8 of Article VI of the Constitution."

SECTION 27.(c) This section is effective when it becomes law and applies only to appointments made on or after that date.

SECTION 28. G.S. 163-59 reads as rewritten:

"§ **163-59. Right to participate or vote in party primary.**

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he:

(1) Is a registered voter, and

(2) Has declared and has had recorded on the registration book or record the fact that he affiliates with the political party in whose primary he proposes to vote or participate, and

(3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-116 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age ~~or residence~~ to register and vote in the general election or regular municipal election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general or regular municipal election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election or regular municipal election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections."

SECTION 29.(a) G.S. 163-226.3(a)(4) reads as rewritten:

"(a) Any person who shall, in connection with absentee voting in any election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

…

(4) For any owner, manager, director, employee, or other person, other than the voter's near relative or verifiable legal guardian, to make a written request pursuant to G.S. 163-230.1 or an application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, to mark the voter's absentee ballot or assist such a voter in marking an absentee ~~ballot;~~ballot. This subdivision does not apply to members, employees, or volunteers of the county board of elections, if those members, employees, or volunteers are working as part of a multipartisan team trained and authorized by the county board of elections to assist voters with absentee ballots. Each county board of elections shall train and authorize such teams, pursuant to procedures which shall be adopted by the State Board of Elections.

…."

SECTION 29.(b) This section becomes effective January 1, 2008.

SECTION 30. G.S. 163-278.16B(c) reads as rewritten:

"(c) Contributions made to a candidate or candidate campaign committee do not become a part of the personal estate of the individual candidate. ~~A candidate or the~~ The candidate ~~who directs the candidate campaign committee~~ may file with the board a written designation of those funds that directs to which of the permitted uses in subsection (a) of this section they shall be paid in the event of the death or incapacity of the candidate. After the payment of permitted outstanding debts of the account, the candidate's filed written designation shall control. If the candidate files no such written designation, the funds after payment of permitted outstanding debts shall be distributed in accordance with subdivision (a)(8) of this section."

SECTION 31. G.S. 163-278.110 is amended by adding a new subdivision to read:

"(8) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article."

SECTION 32. G.S. 163-82.14(a) reads as rewritten:

"(a) Uniform Program. – The State Board of Elections shall adopt a uniform program that makes a reasonable effort:

(1) To remove the names of ineligible voters from the official lists of eligible voters, and

(2) To update the addresses and other necessary data of persons who remain on the official lists of eligible voters.

That program shall be nondiscriminatory and shall comply with the provisions of the Voting Rights Act of 1965, as amended, and with the provisions of the National Voter Registration Act. The State Board of Elections, in addition to the methods set forth in this section, may use other methods toward the ends set forth in subdivisions (1) and (2) of this subsection, including address-updating services provided by the Postal Service. Each county board of elections shall conduct systematic efforts to remove names from its list of registered voters in accordance with this section and with the program adopted by the State Board. The county boards of elections shall complete their list maintenance mailing program by April 15 of every odd-numbered year, unless the State Board of Elections approves a different date for the county."

SECTION 33. G.S. 163-213.4 reads as rewritten:

"§ **163-213.4. Nomination by State Board of Elections.**

By the first Tuesday in February of the year preceding the North Carolina presidential preference primary, the chair of each political party shall submit to the State Board of Elections a list of its presidential candidates to be placed on the presidential preference primary ballot. The list must be comprised of candidates whose candidacy is generally advocated and recognized in the news media throughout the United States or in North Carolina, unless any such candidate executes and files with the chair of the political party an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for nomination in the North Carolina Presidential Preference Primary Election. The State Board of Elections shall prepare and publish a list of the names of the presidential candidates submitted. The State Board of Elections shall convene in Raleigh on the first Tuesday in March preceding the presidential preference primary election. At the meeting required by this section, the State Board of Elections shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of Chapter 163 of the General ~~Statutes, who have become eligible to receive payments from the Presidential Primary Matching Payment Account, as provided in section 9033 of the U.S. Internal Revenue Code of 1954, as amended.~~ Statutes, who have been submitted to the State

Board of Elections. Immediately upon completion of these requirements, the Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with."

SECTION 34.(a) G.S. 163-227.2(g) reads as rewritten:

"(g) Notwithstanding any other provision of this section, a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast under this section. ~~Any site other than the county board of elections office shall be in any building or part of a building that the county board of elections is entitled under G.S. 163-129 to demand and use as a voting place.~~ Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time employee. Those sites must be approved by the State Board of Elections as part of a Plan for Implementation approved by both the county board of elections and by the State Board of Elections which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at voting places on election day. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office; the State Board may approve that proposal in a Plan only if the Plan includes at least one site reasonably proximate to the county board of elections office and the State Board finds that the sites in the Plan as a whole provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county. The State Board of Elections shall not approve, either in a Plan approved unanimously by a county board of elections or in an alternative Plan proposed by a member or members of that board, a one-stop site in a building that the county board of elections is not entitled under G.S. 163-129 to demand and use as an election-day voting place, unless the State Board of Elections finds that other equally suitable sites were not available and that the use of the sites chosen will not unfairly advantage or disadvantage geographic, demographic, or partisan interests of that county."

SECTION 34.(b) This section becomes effective January 1, 2008.

SECTION 35.(a) G.S. 163-278.11(a1) reads as rewritten:

"(a1) Threshold for Reporting Identity of Contributor. – A treasurer shall not be required to report the name, address, or principal occupation of any individual ~~resident of the State~~ who contributes fifty dollars ($50.00) or less to the treasurer's committee during an election as defined in G.S. 163-278.13. The State Board of Elections shall provide on its reporting forms for the reporting of contributions below that threshold. On those reporting forms, the State Board may require date and amount of contributions below the threshold, but may treat differently for reporting purposes contributions below the threshold that are made in different modes and in different settings."

SECTION 35.(b) If Senate Bill 488 of the 2007 Session of the General Assembly becomes law, Section 2-8 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended by Senate Bill 488 of the 2007 Session of the General Assembly, is rewritten to read:

"Section. 2-8. **Disclosure of contributors.** (a) The town may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all individuals who contribute more than twenty dollars ($20.00) per election to their campaigns. For purposes of this section, "election" is as defined in G.S. 163-278.13. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance. The ordinance may not set a threshold for disclosure higher than the dollar amount set in the general law which would apply to elective office in the town.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaigns.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Carrboro."

SECTION 36. G.S. 163-278.13 is amended by adding new subsections to read:

"(d1) Notwithstanding subsections (a) and (b) of this section, a candidate or political committee may accept a contribution knowing that the contribution is to be reimbursed to the entity making the contribution and knowing the candidate or political committee has funds sufficient to reimburse the entity making the contribution if all of the following conditions are met:

(1) The entity submits sufficient information of the contribution to the candidate or political committee for reimbursement within 45 days of the contribution.

(2) The candidate or political committee makes a reimbursement to the entity making the contribution within seven days of submission of sufficient information.

(3) The candidate or political committee indicates on its report under G.S. 163-278.11 that the good, service, or other item resulting in the reimbursement is an expenditure of the candidate or political committee, and notes if the contribution was by credit card.

(4) The contribution does not exceed one thousand dollars ($1,000.00).

(d2) Any contribution, or portion thereof, made under subsection (d1) of this section that is not submitted for reimbursement in accordance with subsection (d1) of this section shall be treated as a contribution for purposes of this section. Any contribution, or portion thereof, made under subsection (d1) of this section that is not reimbursed in accordance with subsection (d1) of this section shall be treated as a contribution for purposes of this section."

SECTION 37. G.S. 163-278.34(b) reads as rewritten:

"(b) Civil Penalties for Illegal ~~Contributions.~~ Contributions and Expenditures. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution or makes an unlawful expenditure in violation of this Article, then that entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a civil penalty and the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the unlawful contribution or expenditure involved in the violation. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully

received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina."

SECTION 38. G.S. 163-285 is amended by adding a new subsection to read:

"(d) All election results of elections held under this Article shall be reported to the State Board within 30 days of the certification of the election."

SECTION 39. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 7:32 p.m. on the 19th day of August, 2007.

Session Law 2007-392 **Senate Bill 320**

AN ACT AUTHORIZING THE SECRETARY OF ADMINISTRATION TO DEVELOP AND ADMINISTER A STATEWIDE UNIFORM CERTIFICATION PROGRAM FOR HISTORICALLY UNDERUTILIZED BUSINESSES DOING BUSINESS WITH STATE DEPARTMENTS, AGENCIES, AND INSTITUTIONS, AND POLITICAL SUBDIVISIONS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-48(d1) is repealed.

SECTION 2. Article 3 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-48.4. Statewide uniform certification of historically underutilized businesses.**

(a) In addition to the powers and duties provided in G.S. 143-49, the Secretary of Administration shall have the power, authority, and duty to:

(1) Develop and administer a statewide uniform program for: (i) the certification of a historically underutilized business, as defined in G.S. 143-128.4, for use by State departments, agencies, and institutions, and political subdivisions of the State; and (ii) the creation and maintenance of a database of the businesses certified as historically underutilized businesses.

(2) Adopt rules and procedures for statewide uniform certification of historically underutilized businesses.

(3) Provide for the certification of all businesses designated as historically underutilized businesses to be used by State departments, agencies, and institutions, and political subdivisions of the State.

(b) The Secretary of Administration shall seek input from State departments, agencies, and institutions, political subdivisions of the State, and any other entity deemed appropriate to determine the qualifications and criteria for statewide uniform certification of historically underutilized businesses.

(c) All State departments, agencies, and institutions, and political subdivisions of the State shall only use historically underutilized businesses listed in the database created in accordance with this section for minority business purposes."

SECTION 3. G.S. 143-128.3(e1) is repealed.

SECTION 4. G.S. 143-128.4 reads as rewritten:

"§ **143-128.4. Historically underutilized business ~~defined.~~defined; statewide uniform certification.**

(a) As used in this Chapter, the term "historically underutilized business" means a business that meets all of the following conditions:

(1) At least fifty-one percent (51%) of the business is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section, or in the case of a corporation, at least fifty-one percent (51%) of the stock is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section.

(2) The management and daily business operations are controlled by one or more owners of the business who are members of at least one of the groups set forth in subsection (b) of this section.

(a1) As used in this Chapter, the term "minority business" means a historically underutilized business.

(b) To qualify as a historically underutilized business under this section, a business must be owned and controlled as set forth in subsection (a) of this section by one or more citizens or lawful permanent residents of the United States who are members of one or more of the following groups:

(1) Black. – A person having origins in any of the black racial groups of Africa.

(2) Hispanic. – A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean islands, regardless of race.

(3) Asian American. – A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific islands.

(4) American Indian. – A person having origins in any of the original Indian peoples of North America.

(5) Female.

(6) Disabled. – A person with a disability as defined in G.S. 168-1 or G.S. 168A-3.

(7) Disadvantaged. – A person who is socially and economically disadvantaged as defined in 15 U.S.C. § 637.

(c) In addition to the powers and duties provided in G.S. 143-49, the Secretary of Administration shall have the power, authority, and duty to:

(1) Develop and administer a statewide uniform program for: (i) the certification of a historically underutilized business, as defined in this section, for use by State departments, agencies, and institutions, and political subdivisions of the State; and (ii) the creation and maintenance of a database of the businesses certified as historically underutilized businesses.

(2) Adopt rules and procedures for the statewide uniform certification of historically underutilized businesses.

(3) Provide for the certification of all businesses designated as historically underutilized businesses to be used by State departments, agencies, and institutions, and political subdivisions of the State.

(d) The Secretary of Administration shall seek input from State departments, agencies, and institutions, political subdivisions of the State, and any other entity

deemed appropriate to determine the qualifications and criteria for statewide uniform certification of historically underutilized businesses.

(e) All State departments, agencies, and institutions, and political subdivisions of the State shall only use historically underutilized businesses listed in the database created in accordance with this section for minority business purposes."

SECTION 5. Except as otherwise provided in this section, this act becomes effective October 1, 2007. The Secretary of Administration shall develop a statewide uniform program and criteria for statewide uniform certification of historically underutilized businesses as provided in G.S. 143-48.4(a)(1) and (2), as enacted by Section 2 of this act, and G.S. 143-128.4(c)(1) and (2), as enacted by Section 4 of this act, no later than March 31, 2008. G.S. 143-48.4(c), as enacted by Section 2 of this act, and G.S. 143-128.4(e), as enacted by Section 4 of this act, become effective July 1, 2009.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 7:35 p.m. on the 19th day of August, 2007.

Session Law 2007-393 **Senate Bill 1130**

AN ACT CLARIFYING THAT DEFENDANTS MUST HAVE ACCESS TO THE COMPLETE FILES OF ALL LAW ENFORCEMENT, TO MAKE CHANGES TO THE STATE BUDGET ACT AS IT APPLIES TO THE JUDICIAL BRANCH, TO ADD A NEW DUTY TO THE DIRECTOR'S POWERS AND DUTIES, TO MODIFY OR REPEAL CERTAIN STATUTES RELATED TO DRUG TREATMENT COURTS, TO MAKE CLARIFYING CHANGES FOR CONTINUING TRAINING FOR MAGISTRATES, TO ESTABLISH A PILOT PROGRAM ALLOWING JURORS TO WAIVE PAYMENT OF PER DIEM FEES AND DESIGNATE FEES FOR OTHER SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-903(a)(1) reads as rewritten:

"(1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. The term "prosecutorial agency" includes any public or private entity that obtains information on behalf of a law enforcement agency or prosecutor in connection with the investigation of the crimes committed or the prosecution of the defendant. Oral statements shall be in written or recorded form. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein."

SECTION 2. G.S. 143C-1-1(b) reads as rewritten:

"(b) The provisions of this Chapter shall apply to every State ~~agency~~ agency, unless specifically exempted herein, and to every non-State entity that receives or expends any State funds. No State agency or non-State entity shall expend any State funds except in accordance with an act of appropriation and the requirements of this Chapter. The provisions of Chapter 120 of the General Statutes shall continue to apply to the General Assembly and to control its expenditures and in the event of a conflict with this Chapter, the provisions of Chapter 120 of the General Statutes shall control. Nothing in this Chapter abrogates or diminishes the inherent power of the legislative, executive, or judicial branch."

SECTION 3. G.S. 143C-3-2 reads as rewritten:

"§ **143C-3-2. Budget estimate for the judicial branch.**

The Administrative Officer of the Courts shall give the Director an estimate of the financial needs of the judicial branch for the upcoming fiscal period in accordance with the schedule prescribed by the Director. The estimates for the judiciary shall be approved and certified by the Chief Justice. The estimates shall be itemized in accordance with the accounting classifications adopted by the Controller. The Director shall include these estimates for the judicial branch in the budget the Director submits to the General Assembly. The Director may recommend changes to these estimates in the budget ~~submitted~~ the Director submits to the General Assembly."

SECTION 4. G.S. 143C-3-5(a) reads as rewritten:

"(a) Budget Proposals. – The Governor shall present budget ~~recommendations~~ recommendations, consistent with G.S. 143C-3-1, 143C-3-2, and 143C-3-3 to each regular session of the General Assembly at a mutually agreeable time to be fixed by joint resolution."

SECTION 5. G.S. 143C-4-6(b) reads as rewritten:

"(b) Increase in Size Limitation. – To the extent that any percent increase in appropriations for a fiscal year for (i) Medicaid, (ii) operation of prisons, or (iii) operation of the courts or ~~(iii)~~(iv) the costs of providing health insurance for teachers and State employees, exceeds the percent increase in State personal income growth for the same period, the limitation on the size of the General Fund operating budget provided in subsection (a) of this section for that fiscal year shall be increased by the dollar amount represented by the excess percentage. For all subsequent fiscal years, the percent limitation contained in subsection (a) shall then be increased to reflect that dollar adjustment."

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

"(b) Revenue Collections. – The Director, with the assistance of the Secretary of Revenue and other officials collecting or receiving appropriated State revenue, shall continuously survey the revenue collections. If the Director finds that revenues to any fund, when added to the beginning unreserved fund balance in that fund, will be insufficient to support appropriations from that fund, the Director shall immediately notify the General Assembly that a deficit is anticipated. The Director shall consult with the Chief Justice to identify expenditure reductions and other lawful measures the Chief Justice and Judicial Branch can implement to reduce expenditures. The Director shall report in a timely manner to the General Assembly a plan containing the expenditure reductions and other lawful measures as the Director is implementing in order to avert the deficit."

SECTION 9. G.S. 143C-7-1(a) reads as rewritten:

"(a) Report to Director. – A State ~~agency~~ agency, other than the judicial branch, that submits to the federal government or to any other party an application for funds that

will be subject to this Chapter shall first provide to the Director a copy of the application along with any related information the Director may require. The judicial branch shall provide the Director with a copy of the application and any related information after making the application."

SECTION 10. G.S. 143C-10-3(a) reads as rewritten:

"(a) State ~~Officer~~ Officers or ~~Employee.~~Employees of the Executive Branch. – The Governor may suspend from the performance of his or her duties any State officer or ~~employee,~~employee of the executive branch except an officer elected by the people, who persists, after notice and warning, in failing or refusing to comply with the provisions of this Chapter or any lawful administrative directive issued pursuant to this Chapter. Before acting to suspend, the Governor shall give the accused notice and an opportunity to be heard in his or her own defense. The Governor shall report the facts leading to suspension to the Attorney General who may initiate appropriate criminal or civil proceedings. The Governor may apply to the General Court of Justice for a restraining order and injunction if a suspended officer or employee persists in performing official acts."

SECTION 11. G.S. 7A-343 reads as rewritten:

"§ **7A-343. Duties of Director.**

The Director is the Administrative Officer of the Courts, and ~~his~~ the Director's duties include all of the following:

(1) Collect and compile statistical data and other information on the judicial and financial operation of the courts and on the operation of other offices directly related to and serving the ~~courts;~~courts.

(2) Determine the state of the dockets and evaluate the practices and procedures of the courts, and make recommendations concerning the number of judges, district attorneys, and magistrates required for the efficient administration of ~~justice;~~ justice.

(3) Prescribe uniform administrative and business methods, systems, forms and records to be used in the offices of the clerks of superior ~~court;~~court.

(4) Prepare and submit budget estimates of State appropriations necessary for the maintenance and operation of the Judicial Department, and authorize expenditures from funds appropriated for these ~~purposes;~~purposes.

(5) Investigate, make recommendations concerning, and assist in the securing of adequate physical accommodations for the General Court of ~~Justice;~~Justice.

(6) Procure, distribute, exchange, transfer, and assign such equipment, books, forms and supplies as are to be acquired with State funds for the General Court of ~~Justice;~~Justice.

(7) Make recommendations for the improvement of the operations of the Judicial ~~Department;~~Department.

(8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to each member of the General ~~Assembly;~~Assembly.

(9) Assist the Chief Justice in performing his duties relating to the transfer of district court judges for temporary or specialized ~~duty;~~duty.

(9a) Establish and operate systems and services that provide for electronic filing in the court system and further provide electronic transaction

processing and access to court information systems pursuant to ~~G.S. 7A-343.2; and~~G.S. 7A-343.2.

(9b) Enter into contracts with one or more private vendors to provide for the payment of fines, fees, and costs due to the court by credit, charge, or debit cards; such contracts may provide for the assessment of a convenience or transaction fee by the vendor to cover the costs of providing this ~~service;~~service.

(9c) Prescribe policies and procedures for the appointment and payment of foreign language interpreters in those cases specified in G.S. 7A-314(f). These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual foreign language interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do ~~so;~~so.

(9d) Analyze the use of contractual positions in the Judicial Department and, after consultation with the Joint Legislative Commission on Governmental Operations, convert contractual positions to permanent State positions when the Director determines it is in the best interests of the Judicial Department to do so.

(10) Perform such additional duties and exercise such additional powers as may be prescribed by statute or assigned by the Chief Justice."

SECTION 12. G.S. 7A-794 reads as rewritten:

"§ **7A-794. Fund administration.**

The Drug Treatment Court Program Fund is created in the Administrative Office of the Courts and is administered by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee. ~~The Director of the Administrative Office of the Courts shall award grants from this Fund and implement local drug treatment court programs. Grants shall be awarded based upon the general guidelines set forth by the Director of the Administrative Office of the Courts and the State Drug Treatment Court Advisory Committee.~~"

SECTION 13. G.S. 7A-798 is repealed.

SECTION 14. G.S. 7A-801 reads as rewritten:

"§ **7A-801. ~~Plan for evaluation.~~Monitoring and annual report.**

The Administrative Office of the Courts shall ~~develop a statewide model and conduct ongoing evaluations of~~ monitor all State-recognized and funded local drug treatment ~~court programs. A report of these evaluations shall be submitted~~ courts, prepare an annual report on the implementation, operation, and effectiveness of the statewide drug treatment court program, and submit the report to the General Assembly by March 1 of each year. Each local drug treatment court program shall submit evaluation reports to the Administrative Office of the Courts as requested."

SECTION 15. G.S. 7A-177(b) reads as rewritten:

"(b) ~~Training~~ In addition to the basic training course required in subsection (a) of this section, continuing education courses shall be provided at such times and locations as necessary to assure that they are conveniently available to all magistrates without extensive travel to other parts of the State. ~~Courses shall be provided in Asheville for the magistrates from the western region of the State.~~"

SECTION 16. G.S. 7A-312 reads as rewritten:

"§ **7A-312. Uniform fees for jurors; meals.**

(a) A juror in the General Court of Justice including a petit juror, or a coroner's juror, but excluding a grand juror, shall receive twelve dollars ($12.00) for the first day of service and twenty dollars ($20.00) per day afterwards, except that if any person serves as a juror for more than five days in any 24-month period, the juror shall receive forty dollars ($40.00) per day for each day of service in excess of five days. A grand juror shall receive twenty dollars ($20.00) per day. A juror required to remain overnight at the site of the trial shall be furnished adequate accommodations and subsistence. If required by the presiding judge to remain in a body during the trial of a case, meals shall be furnished the jurors during the period of sequestration. Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as State employees.

(b) Notwithstanding subsection (a) of this section, the Administrative Office of the Courts may select a judicial district to operate a pilot program in which a juror may waive payment of the per diem fees provided for in that subsection. A juror waiving the fee may designate that the fee be used for any of the following services, if such services are provided in the district: (i) client treatment and service programs associated with a drug treatment or DWI treatment court program; (ii) courthouse self-help centers; (iii) courthouse child care centers; (iv) legal aid programs operated by a nonprofit corporation operating within the district; and (v) the Crime Victims Compensation Fund. If no such services are provided within the district, then waived fees are transferred to the Crime Victims Compensation Fund."

SECTION 15. Sections 1 through 14 and Section 16 of this act become effective October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 2:40 a.m. on the 20th day of August, 2007.

Session Law 2007-394 **Senate Bill 1241**

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. SELF-LIQUIDATING PROJECTS

SECTION 1. The purpose of this act is: (i) to authorize the construction or acquisition by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in this act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed or otherwise acquired and financed as provided in Section 1 of this act, are as follows:

Appalachian State University

Frank Residence Hall Renovation	$7,461,000

Steam Distribution Improvements – Phase IV	$3,086,000
East Carolina University	
Family Medicine Center – Supplement	$6,000,000
North Carolina State University	
Companion Animal Hospital	$34,000,000
Residence Halls – Improvements and Infrastructure Expansion	$13,000,000
The University of North Carolina at Chapel Hill	
College of Arts and Sciences – Digital Multimedia Center and Music Library	$4,000,000
Rosenau Hall Laboratory Building – Comprehensive Renovation	$1,124,000
Science Complex – Phase I	$20,000,000
Hanes Hall	$750,000
Genomic Sciences Building	$12,500,000
Electrical Infrastructure Improvements	$9,300,000
Information Technology Infrastructure Improvements	$11,800,000
Translational Medicine Program Facility Renovation	$4,000,000
Henry Stadium Renovation	$2,000,000
Carmichael Auditorium – Supplement	$2,000,000
Woollen Gymnasium – Supplement	$2,000,000
McColl Building Expansion and Renovation	$6,500,000
Bell Tower Development Parking	$30,000,000
Chilled Water Infrastructure	$39,600,000
The University of North Carolina at Pembroke	
New Football/Multipurpose Tower	$2,000,000
The University of North Carolina at Wilmington	
Residence Halls – Improvements	$5,000,000
Marine Biotechnology Research Facility	$15,000,000
Western Carolina University	
Residence Halls – Construction/Acquisition	$44,560,000

SECTION 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 4. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 2 and Section 7 of this act. The maximum principal amount of bonds to be

issued shall not exceed the specified project costs in Section 2 and Section 7 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest and pay other related additional costs, plus any increase in the specific project costs authorized by the Director of the Budget pursuant to Section 3 of this act.

SECTION 5. With respect to the Marine Biotechnology Research Facility project at the University of North Carolina at Wilmington, the institution may accomplish construction and financing through lease arrangements to and from a special purpose entity created or existing for that purpose and through working with other State agencies.

SECTION 6. With respect to the Residence Halls project at Western Carolina University, the institution may accomplish construction and financing through lease arrangements to and from the Western Carolina University Research and Development Corporation.

SECTION 7. The University of North Carolina at Chapel Hill may accomplish the financing of the acquisition and implementation of certain components of its enterprise administrative systems, including, but not limited to, Student, Human Resources, Payroll, and Finance, in an amount not to exceed fifty-nine million dollars ($59,000,000). Costs related to the project may include, but not be limited to, costs of applicable hardware, software, consulting services, project and support staff, renovation of the Porthole Building on the campus of the University of North Carolina at Chapel Hill, training services, leases of space for the project, and any technical infrastructure components required to implement the systems for the duration of the project. The project shall be deemed to be a "capital facility" and a "special obligation bond project" for purposes of G.S. 116D-22(5).

The University of North Carolina at Chapel Hill must report semiannually on its enterprise administrative systems project to the Joint Legislative Oversight Committee on Information Technology, the chairs of the Senate and House Finance and Appropriations Committees, and the Fiscal Research Division. The report must be made on January 1 and July 1 of each year until the project is fully funded and operational. The report must include all of the following:

(1) A summary of project implementation to date and planned implementation activities.

(2) A summary of expenditures to date by funding source and of planned expenditures by funding source.

(3) A summary of issued debt and planned issuances.

PART II. REVISE UNIVERSITY GENERAL OBLIGATION INDEBTEDNESS

SECTION 8. Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Elizabeth City State University by (i) changing the scope of "Mitchell-Lewis Residence Hall – Replacement" to a comprehensive renovation project and by (ii) reducing the scope of the "Land Acquisition" project and transferring unused funds to "Lane Hall Classroom Building – Comprehensive Renovation" and "Electrical Distribution System Upgrade" and "Campus Infrastructure Improvements." Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University by:

(1) Renaming "Mitchell-Lewis Residence Hall – Replacement" to read "Mitchell-Lewis Residence Hall – Comprehensive Renovation," and

(2) Reducing the allocation to "Land Acquisition" by six hundred fifty thousand dollars ($650,000), and
(3) Increasing the allocation to "Lane Hall Classroom Building – Comprehensive Renovation" by six hundred thousand dollars ($600,000), and
(4) Increasing the allocation to "Electrical Distribution System Upgrade" by twenty-five thousand dollars ($25,000), and
(5) Increasing the allocation to "Campus Infrastructure Improvements" by twenty-five thousand dollars ($25,000).

SECTION 9. Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Central University by reducing the scope of "Hoey Building – Comprehensive Renovation" and transferring unused funds to "Pearson Cafeteria – Expansion" and "Eagleson Residence Hall – Comprehensive Renovation." Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina Central University by:

(1) Reducing the allocation to "Hoey Building – Comprehensive Renovation" by two million three hundred thousand dollars ($2,300,000),
(2) Increasing the allocation to "Pearson Cafeteria – Expansion" by one million dollars ($1,000,000), and
(3) Increasing the allocation to "Eagleson Residence Hall – Comprehensive Renovation" by one million three hundred thousand dollars ($1,300,000).

PART III. EFFECTIVE DATE

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 2:42 a.m. on the 20th day of August, 2007.

Session Law 2007-395 **Senate Bill 1196**

AN ACT TO MODIFY THE PROJECT DEVELOPMENT FINANCING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-103(a) reads as rewritten:

"(a) Each unit of local government may issue project development financing debt instruments pursuant to this Article and use the proceeds for one or more of the purposes for which ~~the~~any unit may issue general obligation bonds pursuant to the following subdivisions of G.S. 159-48: (b)(1), (3), (7), (11), (12), (16), (17), (19), (21), (23), (24), or (25), ~~(c)~~(4a) or (6), (c)(1), (4), (4a), or (6), or (d)(3), (4), (5), (6) or ~~(7).~~(7), or (b)(13) excluding stadiums, arenas, golf courses, swimming pools, wading pools, or marinas. In addition, the proceeds may be used for any service or facility authorized by G.S. 160A-536 ~~and~~ to be provided in a municipal service ~~district.~~district, but no such district need be created.

For the purpose of this Article, the term "capital costs" as defined in G.S. 159-48(h) also includes (i) interest on the debt instruments being issued or on notes issued in anticipation of the instruments during construction and for a period not exceeding seven

years after the estimated date of completion of construction and (ii) the establishment of debt service reserves and any other reserves reasonably required by the financing documents. The proceeds of the debt instruments may be used either in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use directly benefits private development forecast by the development financing plan for the district, outside the development financing district. The proceeds may be used only for projects that enable, facilitate, or benefit private development within the development financing district, the revenue increment of which is pledged as security for the debt instruments. This subsection does not prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a private development in a project development financing district."

SECTION 2. G.S. 159-107(b) reads as rewritten:

"(b) Adjustments to the Base Valuation. – During the lifetime of the development financing district, the base valuation shall be adjusted as follows:

(1) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to remove property from the development financing district, on the succeeding January 1, that property shall be removed from the district and the base valuation reduced accordingly.

(2) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to expand the district, the new property shall be added to the district immediately. The base valuation of the district shall be increased by the assessed value of the taxable property situated in the added territory on the January 1 immediately preceding the effective date of the district.

~~(3) If, at the time of revaluation pursuant to G.S. 105-286 of property in the county in which the district is located, it appears that, based on the schedule of values, standards, and rules approved by the board of county commissioners pursuant to G.S. 105-317, the property values of the district as they existed on the January 1 immediately preceding the effective date of the district would be increased because of the revaluation, then the base valuation shall be increased accordingly.~~

Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 2:48 a.m. on the 20th day of August, 2007.

Session Law 2007-396 **Senate Bill 1167**

AN ACT DIRECTING THE DEPARTMENT OF ADMINISTRATION TO INFORM COUNTIES AND MUNICIPALITIES BEFORE ACQUIRING LAND WITHIN THEIR BOUNDARIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 146-22 reads as rewritten:

"§ **146-22. All acquisitions to be made by Department of Administration.**

(a) Every acquisition of land on behalf of the State or any State agency, whether by purchase, condemnation, lease, or rental, shall be made by the Department of Administration and approved by the Governor and Council of ~~State; provided that if~~State.

(b) If the proposed acquisition is a purchase or gift of land with an appraised value of at least twenty-five thousand dollars ($25,000), and the acquisition is for other than a transportation purpose, the acquisition may only be made after written notice to the Joint Legislative Commission on Governmental ~~Operations~~ Operations, to the board of commissioners and the county manager, if any, of the county in which the land is located, and to the governing body and the city manager, if any, of the municipality in which the land is located if the land is located within a municipality. The notice shall be given to the ~~Chairs~~ chairs of the Commission and of the county and municipal governing boards at least 30 days prior to the ~~acquisition, who~~acquisition, and the chairs shall forward a copy of the notice to the members of ~~the Commission~~their respective bodies within three days of their receipt of the ~~notice, and~~notice. The board of commissioners, individual commissioners, the governing body of the municipality, and individual members of that body may provide written comments on the acquisition to the Department of Administration; the Department shall forward the comments to the Governor and the Council of State.

In determining whether the appraised value is at least twenty-five thousand dollars ($25,000), the value of the property in fee simple shall be used.

The State may not purchase land as a tenant-in-common without consultation with the Joint Legislative Commission on Governmental Operations if the appraised value of the property in fee simple is at least twenty-five thousand dollars ($25,000).

(c) ~~provided further, that acquisitions~~Acquisitions on behalf of the University of North Carolina Health Care System shall be made in accordance with G.S. 116-37(i), acquisitions on behalf of the University of North Carolina Hospitals at Chapel Hill shall be made in accordance with G.S. 116-37(a)(4), acquisitions on behalf of the clinical patient care programs of the School of Medicine of The University of North Carolina at Chapel Hill shall be made in accordance with G.S. 116-37(a)(4), and acquisitions on behalf of the Medical Faculty Practice Plan of the East Carolina University School of Medicine shall be made in accordance with G.S. 116-40.6(d). ~~In determining whether the appraised value is at least twenty-five thousand dollars ($25,000), the value of the property in fee simple shall be used. The State may not purchase land as a tenant-in-common without consultation with the Joint Legislative Commission on Governmental Operations if the appraised value of the property in fee simple is at least twenty-five thousand dollars ($25,000).~~"

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 2:55 a.m. on the 20th day of August, 2007.

Session Law 2007-397 **Senate Bill 3**

AN ACT TO: (1) PROMOTE THE DEVELOPMENT OF RENEWABLE ENERGY AND ENERGY EFFICIENCY IN THE STATE THROUGH IMPLEMENTATION

OF A RENEWABLE ENERGY AND ENERGY EFFICIENCY PORTFOLIO STANDARD (REPS), (2) ALLOW RECOVERY OF CERTAIN NONFUEL UTILITY COSTS THROUGH THE FUEL CHARGE ADJUSTMENT PROCEDURE, (3) PROVIDE FOR ONGOING REVIEW OF CONSTRUCTION COSTS AND FOR RECOVERY OF COSTS IN RATES IN A GENERAL RATE CASE, (4) ADJUST THE PUBLIC UTILITY AND ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEES, (5) PROVIDE FOR THE PHASEOUT OF THE TAX ON THE SALE OF ENERGY TO NORTH CAROLINA FARMERS AND MANUFACTURERS, AND (6) ALLOW A TAX CREDIT TO CONTRIBUTORS TO 501(C)(3) ORGANIZATIONS FOR RENEWABLE ENERGY PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-2(a) reads as rewritten:

"§ **62-2. Declaration of policy.**

(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

…

(8) To cooperate with other states and with the federal government in promoting and coordinating interstate and intrastate public utility service and reliability of public utility energy supply; ~~and~~

(9) To facilitate the construction of facilities in and the extension of natural gas service to unserved areas in order to promote the public welfare throughout the State and to that end to authorize the creation of expansion funds for natural gas local distribution companies or gas districts to be administered under the supervision of the North Carolina Utilities ~~Commission.~~Commission; and

(10) To promote the development of renewable energy and energy efficiency through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) that will do all of the following:

a. Diversify the resources used to reliably meet the energy needs of consumers in the State.

b. Provide greater energy security through the use of indigenous energy resources available within the State.

c. Encourage private investment in renewable energy and energy efficiency.

d. Provide improved air quality and other benefits to energy consumers and citizens of the State."

SECTION 2.(a) Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.7. Renewable Energy and Energy Efficiency Portfolio Standard (REPS).**

(a) Definitions. – As used in this section:

(1) 'Combined heat and power system' means a system that uses waste heat to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility.

(2) 'Demand-side management' means activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electricity use from peak to nonpeak demand periods. 'Demand-side management' includes, but is not limited to, load management, electric system equipment and operating controls, direct load control, and interruptible load.

(3) 'Electric power supplier' means a public utility, an electric membership corporation, or a municipality that sells electric power to retail electric power customers in the State.

(4) 'Energy efficiency measure' means an equipment, physical, or program change implemented after 1 January 2007 that results in less energy used to perform the same function. 'Energy efficiency measure' includes, but is not limited to, energy produced from a combined heat and power system that uses nonrenewable energy resources. 'Energy efficiency measure' does not include demand-side management.

(5) 'New renewable energy facility' means a renewable energy facility that either:

a. Was placed into service on or after 1 January 2007.

b. Delivers or has delivered electric power to an electric power supplier pursuant to a contract with NC GreenPower Corporation that was entered into prior to 1 January 2007.

c. Is a hydroelectric power facility with a generation capacity of 10 megawatts or less that delivers electric power to an electric power supplier.

(6) 'Renewable energy certificate' means a tradable instrument that is equal to one megawatt hour of electricity or equivalent energy supplied by a renewable energy facility, new renewable energy facility, or reduced by implementation of an energy efficiency measure that is used to track and verify compliance with the requirements of this section as determined by the Commission. A 'renewable energy certificate' does not include the related emission reductions, including, but not limited to, reductions of sulfur dioxide, oxides of nitrogen, mercury, or carbon dioxide.

(7) 'Renewable energy facility' means a facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

a. Generates electric power by the use of a renewable energy resource.

b. Generates useful, measurable combined heat and power derived from a renewable energy resource.

c. Is a solar thermal energy facility.

(8) 'Renewable energy resource' means a solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a

renewable energy resource. 'Renewable energy resource' does not include peat, a fossil fuel, or nuclear energy resource.

(b) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Public Utilities. –

(1) Each electric public utility in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

(2) An electric public utility may meet the requirements of this section by any one or more of the following:

a. Generate electric power at a new renewable energy facility.

b. Use a renewable energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel.

c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to twenty-five percent (25%) of the requirements of this section through savings due to implementation of energy efficiency measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures.

d. Purchase electric power from a new renewable energy facility. Electric power purchased from a new renewable energy facility located outside the geographic boundaries of the State shall meet the requirements of this section if the electric power is delivered to a public utility that provides electric power to retail electric customers in the State; provided, however, the electric public utility shall not sell the renewable energy certificates created pursuant to this paragraph to another electric public utility.

e. Purchase renewable energy certificates derived from in-State or out-of-state new renewable energy facilities. Certificates derived from out-of-state new renewable energy facilities shall not be used to meet more than twenty-five percent (25%) of the requirements of this section, provided that this limitation shall not apply to an electric public utility with less than 150,000 North Carolina retail jurisdictional customers as of 31 December 2006.

f. Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of this section for any calendar year as a credit towards the requirements of

this section in the following calendar year or sell the associated renewable energy certificates.

(c) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Membership Corporations and Municipalities. –

(1) Each electric membership corporation or municipality that sells electric power to retail electric power customers in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018 and thereafter	10% of 2017 North Carolina retail sales

(2) An electric membership corporation or municipality may meet the requirements of this section by any one or more of the following:

a. Generate electric power at a new renewable energy facility.

b. Reduce energy consumption through the implementation of demand-side management or energy efficiency measures.

c. Purchase electric power from a renewable energy facility or a hydroelectric power facility, provided that no more than thirty percent (30%) of the requirements of this section may be met with hydroelectric power, including allocations made by the Southeastern Power Administration.

d. Purchase renewable energy certificates derived from in-State or out-of-state renewable energy facilities. An electric power supplier subject to the requirements of this subsection may use certificates derived from out-of-state renewable energy facilities to meet no more than twenty-five percent (25%) of the requirements of this section.

e. Acquire all or part of its electric power through a wholesale purchase power agreement with a wholesale supplier of electric power whose portfolio of supply and demand options meets the requirements of this section.

f. Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of demand-side management or energy efficiency measures that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated renewable energy certificates.

(d) Compliance With REPS Requirement Through Use of Solar Energy Resources. – For calendar year 2018 and for each calendar year thereafter, at least two-tenths of one percent (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State, or an equivalent amount of energy, shall be supplied by a combination of new solar electric facilities and new metered solar thermal energy facilities that use one or more of the following applications: solar hot water, solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, and solar industrial process heat. The terms of any contract entered into between an electric power supplier and a new solar electric facility or new metered solar thermal energy facility shall be of sufficient length to stimulate development of solar energy;

provided, the Commission shall develop a procedure to determine if an electric power supplier is in compliance with the provisions of this subsection if a new solar electric facility or a new metered solar thermal energy facility fails to meet the terms of its contract with the electric power supplier. As used in this subsection, 'new' means a facility that was first placed into service on or after 1 January 2007. The electric power suppliers shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Solar Energy Resources
2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

(e) Compliance With REPS Requirement Through Use of Swine Waste Resources. – For calendar year 2018 and for each calendar year thereafter, at least two-tenths of one percent (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State shall be supplied, or contracted for supply in each year, by swine waste. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Swine Waste Resources
2012	0.07%
2015	0.14%
2018	0.20%

(f) Compliance With REPS Requirement Through Use of Poultry Waste Resources. – For calendar year 2014 and for each calendar year thereafter, at least 900,000 megawatt hours of the total electric power sold to retail electric customers in the State shall be supplied, or contracted for supply in each year, by poultry waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Poultry Waste Resources
2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014	900,000 megawatt hours

(g) Control of Emissions. – As used in this subsection, Best Available Control Technology (BACT) means an emissions limitation based on the maximum degree a reduction in the emission of air pollutants that is achievable for a facility, taking into account energy, environmental, and economic impacts and other costs. A biomass combustion process at any new renewable energy facility that delivers electric power to an electric power supplier shall meet BACT. The Environmental Management Commission shall determine on a case-by-case basis the BACT for a facility that would not otherwise be required to comply with BACT pursuant to the Prevention of Significant Deterioration (PSD) emissions program. The Environmental Management Commission may adopt rules to implement this subsection. In adopting rules, the Environmental Management Commission shall take into account cumulative and secondary impacts associated with the concentration of biomass facilities in close proximity to one another. In adopting rules the Environmental Management Commission shall provide for the manner in which a facility that would not otherwise be required to comply with BACT pursuant to the PSD emissions programs shall meet the BACT requirement.

(h) Cost Recovery and Customer Charges. –

(1) For the purposes of this subsection, the term 'incremental costs' means all reasonable and prudent costs incurred by an electric power supplier to:

a. Comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section that are in excess of the electric power supplier's avoided costs other than those costs recovered pursuant to G.S. 62-133.8.

b. Fund research that encourages the development of renewable energy, energy efficiency, or improved air quality, provided those costs do not exceed one million dollars ($1,000,000) per year.

c. Comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of this section that exceed the costs that the electric power supplier would have incurred under those subsections in the absence of the federal mandate.

(2) All reasonable and prudent costs incurred by an electric power supplier to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of this section, including, but not limited to, the avoided costs associated with a federal mandate that exceeds the avoided costs that the electric power supplier would have incurred pursuant to subsections (b), (c), (d), (e), and (f) of this section in the absence of the federal mandate, shall be recovered by the electric power supplier in an annual rider charge assessed in accordance with the schedule set out in subdivision (4) of this subsection increased by the Commission on a pro rata basis to allow for full and complete recovery of all reasonable and prudent costs incurred to comply with the federal mandate.

(3) Except as provided in subdivision (2) of this subsection, the total annual incremental cost to be incurred by an electric power supplier and recovered from the electric power supplier's retail customers shall not exceed an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of 31 December of the previous calendar year. An electric power supplier shall be conclusively deemed to be in compliance with the requirements of subsections (b), (c), (d), (e), and (f) of this section if the electric power supplier's total annual incremental costs incurred equals an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of 31 December of the previous calendar year. The total annual incremental cost recoverable by an electric power supplier from an individual customer shall not exceed the per-account charges set out in subdivision (4) of this subsection except as these charges may be adjusted in subdivision (2) of this subsection.

(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c),

(d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

Customer Class	2008-2011	2012-2014	2015 and thereafter
Residential per account	$10.00	$12.00	$34.00
Commercial per account	$50.00	$150.00	$150.00
Industrial per account	$500.00	$1,000.00	$1,000.00

(5) The Commission shall adopt rules to establish a procedure for the annual assessment of the per-account charges set out in this subsection to an electric public utility's customers to allow for timely recovery of all reasonable and prudent costs of compliance with the requirements of subsections (b), (c), (d), (e), and (f) of this section and to fund research as provided in subdivision (1) of this subsection. The Commission shall ensure that the costs to be recovered from individual customers on a per-account basis pursuant to subdivisions (2) and (3) of this subsection are in the same proportion as the per-account annual charges for each customer class set out in subdivision (4) of this subsection.

(i) Adoption of Rules. – The Commission shall adopt rules to implement the provisions of this section. In developing rules, the Commission shall:

(1) Provide for the monitoring of compliance with and enforcement of the requirements of this section.

(2) Include a procedure to modify or delay the provisions of subsections (b), (c), (d), (e), and (f) of this section in whole or in part if the Commission determines that it is in the public interest to do so. The procedure adopted pursuant to this subdivision shall include a requirement that the electric power supplier demonstrate that it made a reasonable effort to meet the requirements set out in this section.

(3) Ensure that energy credited toward compliance with the provisions of this section not be credited toward any other purpose, including another renewable energy portfolio standard or voluntary renewable energy purchase program in this State or any other state.

(4) Establish standards for interconnection of renewable energy facilities and other nonutility-owned generation with a generation capacity of 10 megawatts or less to an electric public utility's distribution system; provided, however, that the Commission shall adopt, if appropriate, federal interconnection standards.

(5) Ensure that the owner and operator of each renewable energy facility that delivers electric power to an electric power supplier is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources.

(6) Consider whether it is in the public interest to adopt rules for electric public utilities for net metering of renewable energy facilities with a generation capacity of one megawatt or less.

(7) Develop procedures to track and account for renewable energy certificates, including ownership of renewable energy certificates that

are derived from a customer owned renewable energy facility as a result of any action by a customer of an electric power supplier that is independent of a program sponsored by the electric power supplier.

(j) Report. – No later than 1 October of each year, the Commission shall submit a report on the activities taken by the Commission to implement, and by electric power suppliers to comply with, the requirements of this section to the Governor, the Environmental Review Commission, and the Joint Legislative Utility Review Committee. The report shall include any public comments received regarding direct, secondary, and cumulative environmental impacts of the implementation of the requirements of this section. In developing the report, the Commission shall consult with the Department of Environment and Natural Resources."

SECTION 2.(b) The Commission shall submit the first report required by G.S. 62-133.7(j), as enacted by subsection (a) of this section, no later than 1 October 2008.

SECTION 2.(c) G.S. 143B-282(a) reads as rewritten:

"(a) There is hereby created the Environmental Management Commission of the Department of Environment and Natural Resources with the power and duty to promulgate rules to be followed in the protection, preservation, and enhancement of the water and air resources of the State.

…

(6) The Commission may establish a procedure for evaluating renewable energy technologies that are, or are proposed to be, employed as part of a renewable energy facility, as defined in G.S. 62-133.7; establish standards to ensure that renewable energy technologies do not harm the environment, natural resources, cultural resources, or public health, safety, or welfare of the State; and, to the extent that there is not an environmental regulatory program, establish an environmental regulatory program to implement these protective standards."

SECTION 3. If the federal government imposes requirements similar to those set out in G.S. 62-133.7 on electric power suppliers in the State, the Utilities Commission shall determine the applicability of federal and State requirements so as to apply the more stringent requirements except to the extent that State requirements may be specifically preempted by federal law. The Commission shall adopt rules to establish a procedure as an alternative to the procedure set out in G.S. 62-133 to annually adjust the rates of electric public utilities to allow timely recovery of all reasonable costs of compliance with the federal and State requirements pursuant to G.S. 62-133.7(h), as enacted by Section 2 of this act. In adopting rules to establish the procedure, the Commission shall incorporate the provisions of this act in accordance with this section and the public interest.

SECTION 4.(a) Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.8. Cost recovery for demand-side management and energy efficiency measures.**

(a) The definitions set out in G.S. 62-133.7 apply to this section. As used in this section, 'new,' used in connection with demand-side management or energy efficiency measure, means a demand-side management or energy efficiency measure that is adopted and implemented on or after 1 January 2007, including subsequent changes and modifications.

(b) Each electric power supplier shall implement demand-side management and energy efficiency measures and use supply-side resources to establish the least cost mix of demand reduction and generation measures that meet the electricity needs of its customers. An electric membership corporation or municipality that qualifies as an electric power supplier may satisfy the requirements of this section through its purchases from a wholesale supplier of electric power that uses supply-side resources and demand-side management to meet all or a portion of the supply needs of its members and their retail customers, and that, by aggregating and promoting demand-side management and energy efficiency measures for its members, meets the requirements of this section.

(c) Each electric power supplier to which G.S. 62-110.1 applies shall include an assessment of demand-side management and energy efficiency in its resource plans submitted to the Commission and shall submit cost-effective demand-side management and energy efficiency options that require incentives to the Commission for approval.

(d) The Commission shall, upon petition of an electric public utility, approve an annual rider to the electric public utility's rates to recover all reasonable and prudent costs incurred for adoption and implementation of new demand-side management and new energy efficiency measures. Recoverable costs include, but are not limited to, all capital costs, including cost of capital and depreciation expenses, administrative costs, implementation costs, incentive payments to program participants, and operating costs. In determining the amount of any rider, the Commission:

(1) Shall allow electric public utilities to capitalize all or a portion of those costs to the extent that those costs are intended to produce future benefits.

(2) May approve other incentives to electric public utilities for adopting and implementing new demand-side management and energy efficiency measures. Allowable incentives may include:

a. Appropriate rewards based on the sharing of savings achieved by the demand-side management and energy efficiency measures.

b. Appropriate rewards based on capitalization of a percentage of avoided costs achieved by demand-side management and energy efficiency measures.

c. Any other incentives that the Commission determines to be appropriate.

(e) The Commission shall determine the appropriate assignment of costs of new demand-side management and energy efficiency measures for electric public utilities and shall assign the costs of the programs only to the class or classes of customers that directly benefit from the programs.

(f) None of the costs of new demand-side management or energy efficiency measures of an electric power supplier shall be assigned to any industrial customer that notifies the industrial customer's electric power supplier that, at the industrial customer's own expense, the industrial customer has implemented at any time in the past or, in accordance with stated, quantified goals for demand-side management and energy efficiency, will implement alternative demand-side management and energy efficiency measures and that the industrial customer elects not to participate in demand-side management or energy efficiency measures under this section. The electric power supplier that provides electric service to the industrial customer, an industrial customer that receives electric service from the electric power supplier, the Public Staff, or the

Commission on its own motion, may initiate a complaint proceeding before the Commission to challenge the validity of the notification of nonparticipation. The procedures set forth in G.S. 62-73, 62-74, and 62-75 shall govern any such complaint. The provisions of this subsection shall also apply to commercial customers with significant annual usage at a threshold level to be established by the Commission.

(g) An electric public utility shall not charge an industrial or commercial customer for the costs of installing demand-side management equipment on the customer's premises if the customer provides, at the customer's expense, equivalent demand-side management equipment.

(h) The Commission shall adopt rules to implement this section.

(i) The Commission shall submit to the Governor and to the Joint Legislative Utility Review Committee a summary of the proceedings conducted pursuant to this section during the preceding two fiscal years on or before 1 September of odd-numbered years."

SECTION 4.(b) The Utilities Commission shall submit the first report required by G.S. 62-133.8(i), as enacted by subsection (a) of this section, no later than 1 September 2009.

SECTION 4.(c) The Utilities Commission shall prepare an analysis of whether rate structures, policies, and measures, including decoupling, in place in other states and countries that promote a mix of generation involving renewable energy sources and demand reduction should be implemented in this State. The Commission shall submit this analysis to the Governor, Environmental Review Commission, and the Joint Legislative Utility Review Committee no later than 1 September 2008.

SECTION 5. G.S. 62-133.2 reads as rewritten:

"§ **62-133.2. Fuel and fuel-related charge adjustments for electric utilities.**

(a) The Commission ~~may allow~~shall permit an electric ~~utilities~~ public utility that generates electric power by fossil fuel or nuclear fuel to charge ~~a uniform~~an increment or decrement as a rider to ~~their~~ its rates for changes in the cost of fuel ~~and the fuel component of purchased power~~and fuel-related costs used in providing ~~their~~ its North Carolina customers with electricity from the cost of fuel ~~and the fuel component of purchased power established in their previous general rate case.~~and fuel-related costs established in the electric public utility's previous general rate case on the basis of cost per kilowatt hour.

(a1) As used in this section, 'cost of fuel and fuel-related costs' means all of the following:

(1) The cost of fuel burned.

(2) The cost of fuel transportation.

(3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.

(4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility, that are subject to economic dispatch or economic curtailment.

(5) The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are subject to economic dispatch by the electric public utility.

(6) Except for those costs recovered pursuant to G.S. 62-133.7(h), the total delivered costs of all purchases of power from renewable energy

facilities and new renewable energy facilities pursuant to G.S. 62-133.7 or to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.7.

(7) The fuel cost component of other purchased power.

(8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components.

(9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(a2) For those costs identified in subdivisions (4), (5), and (6) of subsection (a1) of this section, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this section shall not exceed two percent (2%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. The costs described in subdivisions (4), (5), and (6) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider as follows:

(1) For the costs described in subdivision (4) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the electric public utility's North Carolina energy usage for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

(2) For the costs described in subdivisions (5) and (6) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the electric public utility's North Carolina peak demand for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

(a3) Notwithstanding subsections (a1) and (a2) of this section, for an electric public utility that has fewer than 150,000 North Carolina retail jurisdictional customers as of 31 December 2006, the costs identified in subdivisions (1), (2), (6), and (7) of subsection (a1) of this section and the fuel cost component, as may be modified by the Commission, of electric power purchases identified in subdivision (4) of subsection (a1) of this section shall be recovered through the increment or decrement rider approved by the Commission pursuant to this section. For the costs identified in subdivision (6) of subsection (a1) of this section that are incurred on or after 1 January 2008, the annual increase in the amount of these costs shall not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. These costs described in subdivision (6) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider. For the costs described in subdivision (6) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the electric public utility's North Carolina peak

demand for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after 1 January 2008.

(b) ~~For each electric utility engaged in the generation and production of electric power by fossil or nuclear fuels, the~~The Commission shall ~~hold~~ conduct a hearing within 12 months of ~~the~~ each electric public utility's last general rate case order ~~and~~ to determine whether an increment or decrement rider is required to reflect actual changes in the cost of fuel ~~and the fuel cost component of purchased power~~and fuel-related costs over or under the cost of fuel and fuel-related costs on a kilowatt-hour basis in base rates established in the electric public utility's last preceding general rate case. Additional hearings shall be held on an annual basis but only one hearing for each ~~such~~ electric public utility may be held within 12 months of the last general rate case.

(c) Each electric public utility shall submit to the Commission for the hearing verified annualized information and data in such form and detail as the Commission may require, for an historic 12-month test period, relating to:

(1) ~~Purchased cost~~Cost of fuel and fuel-related costs used in each generating facility owned in whole or in part by the utility.
(2) Fuel procurement practices and fuel inventories for each facility.
(3) Burned cost of fuel used in each generating facility.
(4) Plant capacity factor for each generating facility.
(5) Plant availability factor for each generating plant.
(6) Generation mix by types of fuel used.
(7) Sources and fuel cost component of purchased power used.
(8) Recipients of and revenues received for power sales and times of power sales.
(9) Test period ~~kilowatt hour~~kilowatt-hour sales for the utility's total system and on the total system separated for North Carolina jurisdictional sales.
(10) Procurement practices and inventories for: fuel burned and for ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
(11) The cost incurred at each generating facility of fuel burned and of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
(12) Any net gains or losses resulting from any sales by the electric public utility of fuel or other fuel-related costs components.
(13) Any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(d) The Commission shall provide for notice of a public hearing with reasonable and adequate time for investigation and for all intervenors to prepare for hearing. At the hearing the Commission shall receive evidence from the utility, the ~~public staff,~~Public Staff, and any intervenor desiring to submit evidence, and from the public generally. In reaching its decision, the Commission shall consider all evidence required under subsection (c) of this section as well as any and all other competent evidence that may assist the Commission in reaching its decision including changes in the ~~price of fuel consumed and changes in the price of the fuel in the fuel component of purchased power occurring within a reasonable time (as determined by the Commission) after the~~

~~test period is closed.~~cost of fuel consumed and fuel-related costs that occur within a reasonable time, as determined by the Commission, after the test period is closed. The Commission shall incorporate in its ~~fuel~~ cost of fuel and fuel-related costs determination under this subsection the experienced over-recovery or under-recovery of reasonable costs of fuel and fuel-related costs ~~expenses~~ prudently incurred during the test period, based upon the prudent standards set pursuant to subsection (d1) of this section, in fixing an increment or decrement rider. Upon request of the electric public utility, the Commission shall also incorporate in this determination the experienced over-recovery or under-recovery of costs of fuel and fuel-related costs through the date that is 30 calendar days prior to the date of the hearing, provided that the reasonableness and prudence of these costs shall be subject to review in the utility's next annual hearing pursuant to this section. The Commission shall use deferral accounting, and consecutive test periods, in complying with this subsection, and the over-recovery or under-recovery portion of the increment or decrement shall be reflected in rates for 12 months, notwithstanding any changes in the base fuel cost in a general rate case. The burden of proof as to the correctness and reasonableness of the charge and as to whether the cost of fuel ~~charges~~ and fuel-related costs were reasonably and prudently incurred shall be on the utility. The Commission shall allow only that portion, if any, of a requested cost of fuel and fuel-related costs adjustment that is based on adjusted and reasonable cost of fuel ~~expenses~~ and fuel-related costs prudently incurred under efficient management and economic operations. In evaluating whether cost of fuel ~~expenses~~ and fuel-related costs were reasonable and prudently incurred, the Commission shall apply the rule adopted pursuant to subsection ~~(d1).~~(d1) of this section. To the extent that the Commission determines that an increment or decrement to the rates of the utility due to changes in the cost of fuel and ~~the fuel cost component of purchased power~~fuel-related costs over or under base fuel costs established in the preceding general rate case is just and reasonable, the Commission shall order that the increment or decrement become effective for all sales of electricity and remain in effect until changed in a subsequent general rate case or annual proceeding under this section.

(d1) Within one year after ratification of this act, for the purposes of setting ~~fuel rates,~~cost of fuel and fuel-related costs rates, the Commission shall adopt a rule that establishes prudent standards and procedures with which it can appropriately measure management efficiency in minimizing ~~fuel~~ cost of fuel and fuel-related costs.

(e) If the Commission has not issued an order pursuant to this section within ~~120~~ 180 days of a utility's submission of annual data under subsection (c) of this section, the utility may place the requested cost of fuel and fuel-related costs adjustment into effect. If the change in rate is finally determined to be excessive, the utility shall make refund of any excess plus interest to its customers in a manner ordered by the Commission.

(f) Nothing in this section shall relieve the Commission from its duty to consider the reasonableness of ~~fuel expenses~~the cost of fuel and fuel-related costs in a general rate case and to set rates reflecting reasonable ~~fuel expenses~~cost of fuel and fuel-related costs pursuant to G.S. 62-133. Nothing in this section shall invalidate or preempt any condition adopted by the Commission and accepted by the utility in any proceeding that would limit the recovery of costs by any electric public utility under this section.

(g) ~~On July 1, 1993 and every two years thereafter,~~On 1 July of every odd-numbered year, the Utilities Commission shall provide a report to the Joint Legislative Utility Review Committee summarizing the ~~procedures~~ proceedings conducted pursuant to ~~G.S. 62-133.2~~this section during the preceding two years."

SECTION 6. G.S. 62-110.1 reads as rewritten:

"§ **62-110.1. Certificate for construction of generating facility; analysis of long-range needs for expansion of ~~facilities.~~facilities; ongoing review of construction costs; inclusion of approved construction costs in rates.**

(a) Notwithstanding the proviso in G.S. 62-110, no public utility or other person shall begin the construction of any steam, water, or other facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service, even though the facility be for furnishing the service already being rendered, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction.

(b) For the purpose of subsections (a), (c), and (d) of this section, "public utility" shall include any electric membership corporation operating within this State, and the term "public utility service" shall include the service rendered by any such electric membership corporation.

(c) The Commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina, including its estimate of the probable future growth of the use of electricity, the probable needed generating reserves, the extent, size, mix and general location of generating plants and arrangements for pooling power to the extent not regulated by the Federal ~~Power~~ Energy Regulatory Commission and other arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the people of North Carolina, and shall consider such analysis in acting upon any petition by any utility for construction. In developing such analysis, the Commission shall confer and consult with the public utilities in North Carolina, the utilities commissions or comparable agencies of neighboring states, the Federal ~~Power~~ Energy Regulatory Commission, the Southern Growth Policies Board, and other agencies having relevant information and may participate as it deems useful in any joint boards investigating generating plant sites or the probable need for future generating facilities. In addition to such reports as public utilities may be required by statute or rule of the Commission to file with the Commission, any such utility in North Carolina may submit to the Commission its proposals as to the future needs for electricity to serve the people of the State or the area served by such utility, and insofar as practicable, each such utility and the Attorney General may attend or be represented at any formal conference conducted by the Commission in developing a plan for the future requirements of electricity for North Carolina or this region. In the course of making the analysis and developing the plan, the Commission shall conduct one or more public hearings. Each year, the Commission shall submit to the Governor and to the appropriate committees of the General Assembly a report of its analysis and plan, the progress to date in carrying out such plan, and the program of the Commission for the ensuing year in connection with such plan.

(d) In acting upon any petition for the construction of any facility for the generation of electricity, the Commission shall take into account the applicant's arrangements with other electric utilities for interchange of power, pooling of plant, purchase of power and other methods for providing reliable, ~~efficient~~ efficient, and economical electric service.

(e) As a condition for receiving ~~such certificate~~ a certificate, the applicant shall file an estimate of construction costs in such detail as the Commission may require. The Commission shall hold a public hearing on each ~~such~~ application and no certificate shall be granted unless the Commission has approved the estimated construction costs and made a finding that ~~such~~ construction will be consistent with the Commission's plan for

expansion of electric generating capacity. A certificate for the construction of a coal or nuclear facility shall be granted only if the applicant demonstrates and the Commission finds that energy efficiency measures; demand-side management; renewable energy resource generation; combined heat and power generation; or any combination thereof, would not establish or maintain a more cost-effective and reliable generation system and that the construction and operation of the facility is in the public interest. In making its determination, the Commission shall consider resource and fuel diversity and reasonably anticipated future operating costs. Once the Commission grants a certificate, no public utility shall cancel construction of a generating unit or facility without approval from the Commission based upon a finding that the construction is no longer in the public interest.

(e1) Upon the request of the public utility or upon its own motion, the Commission may review the certificate to determine whether changes in the probable future growth of the use of electricity indicate that the public convenience and necessity require modification or revocation of the certificate. If the Commission finds that completion of the generating facility is no longer in the public interest, the Commission may modify or revoke the certificate.

(f) ~~The Commission shall maintain an ongoing review of such construction as it proceeds and the applicant shall submit each year during construction a progress report and any revisions in the cost estimates for the construction.~~ The public utility shall submit a progress report and any revision in the cost estimate for the construction approved under subsection (e) of this section during each year of construction. Upon the request of the public utility or upon its own motion, the Commission may conduct an ongoing review of construction of the facility as the construction proceeds. If the Commission approves any revised construction cost estimate and finds that incurrence of the cost of that portion of the construction of the facility under review was reasonable and prudent, the certificate shall remain in effect. If the Commission disapproves any part of the revised cost estimate or finds that the incurrence of the cost of that portion of the construction of the facility then under review was unreasonable or imprudent, the Commission may modify or revoke the certificate.

(f1) The public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the actual costs it has incurred in constructing a generating facility in reliance on a certificate issued under this section as provided in this subsection, unless new evidence is discovered (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost was just and reasonable and prudently incurred was erroneous. If the Commission determines that evidence has been submitted that meets the requirements of this subsection, the public utility shall have the burden of proof to demonstrate that the material item of cost was in fact just and reasonable and prudently incurred.

(1) When a facility has been completed, and the construction of the facility has been subject to ongoing review under subsection (f) of this section, the reasonable and prudent costs of construction approved by the Commission during the ongoing review shall be included in the public utility's rate base without further review by the Commission.

(2) If a facility has not been completed, and the construction of the facility has been subject to ongoing review under subsection (f) of this section, the reasonable and prudent costs of construction approved by the

Commission during the ongoing review shall be included in the public utility's rate base without further review by the Commission.

(3) If a facility is under construction or has been completed and the construction of the facility has not been subject to ongoing review under subsection (f) of this section, the costs of construction shall be included in the public utility's rate base if the Commission finds that the incurrence of these costs is reasonable and prudent.

(f2) If the construction of a facility is cancelled, including cancellation as a result of modification or revocation of the certificate under subsection (e1) of this section, and the construction of the facility has been subject to ongoing review under subsection (f), absent newly discovered evidence (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost was just and reasonable and prudently incurred was erroneous, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction approved by the Commission during the ongoing review that were actually incurred prior to cancellation, amortized over a reasonable time as determined by the Commission. In the general rate case, the Commission shall make any adjustment that may be required because costs of construction previously added to the utility's rate base pursuant to subsection (f1) of this section are removed from the rate base and recovered in accordance with this subsection. Any costs of construction actually incurred, but not previously approved by the Commission, shall be recovered only if they are found by the Commission to be reasonable and prudent. If the Commission determines that evidence has been submitted that meets the requirements of this subsection, the public utility shall have the burden of proof to demonstrate that the material item of cost was just and reasonable and prudently incurred.

(f3) If the construction of a facility is cancelled, including cancellation as a result of the modification or revocation of the certificate under subsection (e1) of this section, and the construction of the facility has not been subject to ongoing review under subsection (f) of this section, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction that were actually incurred prior to the cancellation and are found by the Commission to be reasonable and prudent, amortized over a reasonable time as determined by the Commission. In the general rate case, the Commission shall make any adjustment that may be required because costs of construction previously added to the utility's rate base pursuant to subsection (f1) of this section are removed from the rate base and recovered in accordance with this subsection.

(g) The certification requirements of this section shall not apply to a nonutility-owned generating facility fueled by renewable energy resources under two megawatts in capacity or to persons who construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; provided, however, that such persons shall, nevertheless, be required to report to the Utilities Commission the proposed construction of such a facility before beginning construction thereof."

SECTION 7. Article 6 of Chapter 62 of the General Statutes is amended by adding two new sections to read:

"**§ 62-110.6. Rate recovery for construction costs of out-of-state electric generating facilities.**

(a) The Commission shall, upon petition of a public utility, determine the need for and, if need is established, approve an estimate of the construction costs and construction schedule for an electric generating facility in another state that is intended to serve retail customers in this State.

(b) The petition may be filed at any time after an application for a certificate or license for the construction of the facility has been filed in the state in which the facility will be sited. The petition shall contain a showing of need for the facility, an estimate of the construction costs, and the proposed construction schedule for the facility.

(c) The Commission shall conduct a public hearing to consider and determine the need for the facility and the reasonableness of the construction cost estimate and proposed construction schedule. If the Commission finds that the construction will be needed to assure the provision of adequate public utility service within North Carolina, the Commission shall approve a construction cost estimate and a construction schedule for the facility. In making its determinations under this section, the Commission may consider whether the state in which the facility will be sited has issued a certificate or license for construction of the facility and approved a construction cost estimate and construction schedule for the facility. The Commission shall issue its order not later than 180 days after the public utility files its petition.

(d) G.S. 62-110.1(f) shall apply to the construction cost estimate determined by the Commission to be appropriate, and the actual costs the public utility incurs in constructing the facility shall be recoverable through rates in a general rate case pursuant to G.S. 62-133 as provided in G.S. 62-110.1(f1).

(e) If the construction of a facility is cancelled, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction that were actually incurred prior to the cancellation and are found by the Commission to be reasonable and prudent, as provided in subsections (f2) and (f3) of G.S. 62-110.1.

"**§ 62-110.7. Project development cost review for a nuclear facility.**

(a) For purposes of this section, "project development costs" mean all capital costs associated with a potential nuclear electric generating facility incurred before (i) issuance of a certificate under G.S. 62-110.1 for a facility located in North Carolina or (ii) issuance of a certificate by the host state for an out-of-state facility to serve North Carolina retail customers, including, without limitation, the costs of evaluation, design, engineering, environmental analysis and permitting, early site permitting, combined operating license permitting, initial site preparation costs, and allowance for funds used during construction associated with such costs.

(b) At any time prior to the filing of an application for a certificate to construct a potential nuclear electric generating facility, either under G.S. 62-110.1 or in another state for a facility to serve North Carolina retail customers, a public utility may request that the Commission review the public utility's decision to incur project development costs. The public utility shall include with its request such information and documentation as is necessary to support approval of the decision to incur proposed project development costs. The Commission shall hold a hearing regarding the request. The Commission shall issue an order within 180 days after the public utility files its request. The Commission shall approve the public utility's decision to incur project development costs if the public utility demonstrates by a preponderance of evidence that the decision to incur project development costs is reasonable and prudent; provided, however, the Commission shall not rule on the reasonableness or prudence of specific project development activities or recoverability of specific items of cost.

(c) All reasonable and prudent project development costs, as determined by the Commission, incurred for the potential nuclear electric generating facility shall be included in the public utility's rate base and shall be fully recoverable through rates in a general rate case proceeding pursuant to G.S. 62-133.

(d) If the public utility is allowed to cancel the project, the Commission shall permit the public utility to recover all reasonable and prudently incurred project development costs in a general rate case proceeding pursuant to G.S. 62-133 amortized over a period equal to the period during which the costs were incurred, or five years, whichever is greater."

SECTION 8. G.S. 62-133(b) reads as rewritten:

"(b) In fixing such rates, the Commission shall:

(1) Ascertain the reasonable original cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within the State, less that portion of the cost ~~which~~ that has been consumed by previous use recovered by depreciation ~~expense plus the reasonable original cost of investment in plant under construction (construction work in progress). In ascertaining the cost of the public utility's property, construction work in progress as of the effective date of this subsection shall be excluded until such plant comes into service but reasonable and prudent expenditures for construction work in progress after the effective date of this subsection may be included, to the extent the Commission considers such inclusion in the public interest and necessary to the financial stability of the utility in question, subject to the provisions of subparagraph (b)(4a) of this section.~~expense. In addition, construction work in progress may be included in the cost of the public utility's property under any of the following circumstances:

a. To the extent the Commission considers inclusion in the public interest and necessary to the financial stability of the utility in question, reasonable and prudent expenditures for construction work in progress may be included, subject to the provisions of subdivision (4a) of this subsection.

b. For baseload electric generating facilities, reasonable and prudent expenditures shall be included pursuant to subdivisions (2) or (3) of G.S. 62-110.1(f1), whichever applies, subject to the provisions of subdivision (4a) of this subsection.

(1a) Apply the rate of return established under subdivision (4) of this subsection to rights-of-way acquired through agreements with the Department of Transportation pursuant to G.S. 136-19.5(a) if acquisition is consistent with a definite plan to provide service within five years of the date of the agreement and if such right-of-way acquisition will result in benefits to the ratepayers. If a right-of-way is not used within a reasonable time after the expiration of the five-year period, it may be removed from the rate base by the Commission when rates for the public utility are next established under this section.

(2) Estimate such public utility's revenue under the present and proposed rates.

(3) Ascertain such public utility's reasonable operating expenses, including actual investment currently consumed through reasonable actual depreciation.

(4) Fix such rate of return on the cost of the property ascertained pursuant to subdivision (1) of this subsection as will enable the public utility by sound management to produce a fair return for its shareholders, considering changing economic conditions and other factors, including, but not limited to, the inclusion of construction work in progress in the utility's property under sub-subdivision b. of subdivision (1) of this subsection, as they then exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms ~~which~~ that are reasonable and ~~which~~ that are fair to its customers and to its existing investors.

(4a) Require each public utility to discontinue capitalization of the composite carrying cost of capital funds used to finance construction (allowance for funds) on the construction work in progress included in its rate based upon the effective date of the first and each subsequent general rate order issued with respect to it after the effective date of this subsection; allowance for funds may be capitalized with respect to expenditures for construction work in progress not included in the utility's property upon which the rates were fixed. In determining net operating income for return, the Commission shall not include any capitalized allowance for funds used during construction on the construction work in progress included in the utility's rate base.

(5) Fix such rates to be charged by the public utility as will earn in addition to reasonable operating expenses ascertained pursuant to subdivision (3) of this subsection the rate of return fixed pursuant to subdivisions (4) and (4a) on the cost of the public utility's property ascertained pursuant to subdivisions (1) and (1a) of this subsection."

SECTION 9.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after 1 July 2007.

SECTION 9.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is two hundred thousand dollars ($200,000).

SECTION 10.(a) G.S. 105-164.4(a)(1i) is repealed.

SECTION 10.(b) G.S. 105-164.4(a)(1f) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-quarter percent (4.25%).

…

(1f) The rate of two and eighty-three-hundredths percent (2.83%) applies to the sales price of electricity ~~described in this subdivision and~~ that is measured by a separate meter or another separate ~~device:~~device and sold to a commercial laundry or to a pressing and dry-cleaning

establishment for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.

~~a. Sales of electricity to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.~~

b. Repealed.

~~c. Sales of electricity to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.~~"

SECTION 10.(c) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-quarter percent (4.25%).

…

(1j) The rate of one and eight-tenths percent (1.8%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:

a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.

b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes."

SECTION 10.(d) G.S. 105-164.4(a)(1j), as enacted by subsection (c) of this section, reads as rewritten:

"(1j) The rate of ~~one and eight-tenths percent (1.8%)~~ one and four-tenths percent (1.4%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:

a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.

b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes."

SECTION 10.(e) G.S. 105-164.4(a)(1j), as enacted by subsection (c) of this section and amended by subsection (d) of this section, reads as rewritten:

"(1j) The rate of ~~one and four-tenths percent (1.4%)~~ eight-tenths percent (0.8%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:

a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.

b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes."

SECTION 10.(f) G.S. 105-164.4(a)(1j), as enacted by this section, is repealed.

SECTION 10.(g) G.S. 105-164.13(1) reads as rewritten:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

Agricultural Group.

(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, and seeds.

b. Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.

c. A horse or mule.

d. ~~Fuel other than electricity.~~Fuel."

SECTION 10.(h) G.S. 105-164.13 is amended by adding two new subdivisions to read:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

…

(1b) Electricity sold to a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes.

…

(56) Fuel and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility."

SECTION 10.(i) Subsections (a), (b), and (c) of this section become effective 1 October 2007 and apply to sales occurring on or after that date. Subsection (d) of this section becomes effective 1 July 2008 and applies to sales occurring on or after that date. Subsection (e) of this section becomes effective 1 July 2009 and applies to sales occurring on or after that date. Subsections (f), (g), and (h) of this section become effective 1 July 2010 and apply to sales occurring on or after that date. The remainder of this section is effective when it becomes law.

SECTION 11.(a) G.S. 105-187.41 reads as rewritten:

"§ **105-187.41. Tax imposed on piped natural gas.**

(a) Scope. – An excise tax is imposed on piped natural gas received for consumption in this State. This tax is imposed in lieu of a sales and use tax and a percentage gross receipts tax on piped natural gas.

(b) Rate. – The tax rate is set in the table below. The tax rate is based on monthly therm volumes of piped natural gas received by the end-user of the gas. If an end-user receives piped natural gas that is metered through two or more separate measuring devices, the tax is calculated separately on the volume metered through each device rather than on the total volume metered through all measuring devices, unless the devices are located on the same premises and are part of the same billing account. In that circumstance, the tax is calculated on the total volume metered through the two or more separate measuring devices.

Monthly Volume of Therms Received	Rate Per Therm
First 200	$.047
201 to 15,000	.035
15,001 to 60,000	.024
60,001 to 500,000	.015
Over 500,000	.003

(c) Gas City Exemption. – The tax imposed by this section does not apply to piped natural gas received by a gas city for consumption by that city or to piped natural gas delivered by a gas city to a sales or transportation customer of the gas city.

(d) Reduced Rate. – Piped natural gas received by a manufacturer for use in connection with the operation of a manufacturing facility or by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes is taxable at a reduced rate as provided in this subsection. To be eligible for the reduced tax rate, a person must have a manufacturer's certificate or a farmer's certificate issued under G.S. 105-164.28A. A person who uses piped natural gas for an unauthorized purpose is liable for any tax due on the gas.

Monthly Volume of Therms Received	Rate Per Therm
First 200	$.032
201 to 15,000	.024
15,001 to 60,000	.016
60,001 to 500,000	.010
Over 500,000	.002"

SECTION 11.(b) G.S. 105-187.41(d), as enacted by subsection (a) of this section, reads as rewritten:

"(d) Reduced Rate. – Piped natural gas received by a manufacturer for use in connection with the operation of a manufacturing facility and by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes is taxable as provided in this subsection. To be eligible for the reduced tax rate, a person must have a manufacturer's certificate or a farmer's certificate issued under G.S. 105-164.28A. A person who uses piped natural gas for an unauthorized purpose is liable for any tax due on the gas.

Monthly Volume of Therms Received	Rate Per Therm
First 200	~~$.032~~.025
201 to 15,000	~~.024~~.019

15,001 to 60,000	~~.016~~.013
60,001 to 500,000	~~.010~~.008
Over 500,000	~~.002~~.002"

SECTION 11.(c) G.S. 105-187.41(d), as enacted by subsection (a) of this section and amended by subsection (b) of this section, reads as rewritten:

"(d) Reduced Rate. – Piped natural gas received by a manufacturer for use in connection with the operation of a manufacturing facility and by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes is taxable as provided in this subsection. To be eligible for the reduced tax rate, a person must have a manufacturer's certificate or a farmer's certificate issued under G.S. 105-164.28A. A person who uses piped natural gas for an unauthorized purpose is liable for any tax due on the gas.

Monthly Volume of Therms Received	Rate Per Therm
First 200	$~~.025~~.014
201 to 15,000	~~.019~~.010
15,001 to 60,000	~~.013~~.007
60,001 to 500,000	~~.008~~.004
Over 500,000	~~.002~~.001"

SECTION 11.(d) G.S. 105-187.41(d), as enacted by this section, is repealed.

SECTION 11.(e) G.S. 105-187.41(c) reads as rewritten:

"(c) ~~Gas City Exemption.~~ Exemptions. – The tax imposed by this section does not apply to ~~piped~~ any of the following:

(1) Piped natural gas received by a gas city for consumption by that ~~city or to piped~~ city.

(2) Piped natural gas delivered by a gas city to a sales or transportation customer of the gas city.

(3) Piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility. To be eligible for the exemption, a person must have a manufacturer's certificate issued under G.S. 105-164.28A. A person who uses piped natural gas for an unauthorized purpose is liable for any tax due on the gas.

(4) Piped natural gas received by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes. To be eligible for the exemption, a person must have a farmer's certificate issued under G.S. 105-164.28A. A person who uses piped natural gas for an unauthorized purpose is liable for any tax due on the gas."

SECTION 11.(f) Subsection (a) of this section becomes effective 1 October 2007 and applies to bills issued on or after that date. Subsection (b) of this section becomes effective 1 July 2008 and applies to bills issued on or after that date. Subsection (c) of this section becomes effective 1 July 2009 and applies to bills issued on or after that date. Subsections (d) and (e) of this section become effective 1 July 2010 and apply to bills issued on or after that date. The remainder of this section is effective when it becomes law.

SECTION 12.(a) G.S. 105-187.51A reads as rewritten:

"§ **105-187.51A. Tax imposed on manufacturing fuel.**

A privilege tax is imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant. The tax is ~~one percent (1%)~~ seven-tenths percent (0.7%) of the sales price of the fuel. The tax does not apply to electricity or piped natural gas."

SECTION 12.(b) G.S. 105-187.51A, as amended by subsection (a) of this section, reads as rewritten:

"§ **105-187.51A. Tax imposed on manufacturing fuel.**

A privilege tax is imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant. The tax is ~~seven-tenths percent~~ five-tenths percent (0.5%) of the sales price of the fuel. The tax does not apply to electricity or piped natural gas."

SECTION 12.(c) G.S. 105-187.51A, as amended by subsection (a) of this section, reads as rewritten:

"§ **105-187.51A. Tax imposed on manufacturing fuel.**

A privilege tax is imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant. The tax is ~~five-tenths percent (0.5%)~~ three-tenths percent (0.3%) of the sales price of the fuel. The tax does not apply to electricity or piped natural gas."

SECTION 12.(d) G.S. 105-187.51A is repealed.

SECTION 12.(e) Subsection (a) of this section becomes effective 1 October 2007 and applies to fuel purchased on or after that date. Subsection (b) of this section becomes effective 1 July 2008 and applies to fuel purchased on or after that date. Subsection (c) of this section becomes effective 1 July 2009 and applies to fuel purchased on or after that date. Subsection (d) of this section becomes effective 1 July 2010. The remainder of this section is effective when it becomes law.

SECTION 13.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16G. Credit for donating funds to a nonprofit organization to enable the nonprofit to acquire renewable energy property.**

(a) Credit. – A taxpayer who donates money to a tax-exempt nonprofit organization for the purpose of providing funds for the organization to construct, purchase, or lease renewable energy property is allowed a credit under this section if the nonprofit organization uses the donation for its intended purpose. A tax-exempt nonprofit organization is an organization that is exempt from tax under section 501(c)(3) of the Code.

The amount of the credit allowed in this section is the taxpayer's share of the credit the nonprofit organization could claim under G.S. 105-129.16A if the nonprofit organization were subject to tax. The taxpayer's share of the credit is calculated by dividing the taxpayer's donation by the cost of the renewable energy property constructed, purchased, or leased by the nonprofit organization and placed in service during the taxable year and then multiplying this percentage by the amount of the credit the nonprofit organization could claim if it were subject to tax. A taxpayer must take the credit allowed by this section in the year in which the property is placed in service. The installment requirements in G.S. 105-129.16A for nonresidential property do not apply to the credit allowed in this section.

(b) Records. – A nonprofit organization must keep a record of all donations it receives for the purpose of providing funds for the organization to construct, purchase, or lease renewable energy property and of the amount of the donations used for this purpose. If a nonprofit organization places renewable energy property in service that is purchased in whole or in part from donations made for this purpose, the nonprofit

organization must give each taxpayer who made a donation a statement setting out the amount of the credit for which the taxpayer qualifies under this section. The statement must describe the renewable energy property placed in service and state the cost of the property, the amount of the credit the nonprofit organization could claim under G.S. 105-129.16A if it were subject to tax, and the taxpayer's share of the credit allowed in this section. If the donations made for the renewable energy property exceed the cost of the property, the nonprofit organization must prorate each taxpayer's share of the credit. The sum of the credits allowed under this section to taxpayers who make donations to a nonprofit organization may not exceed the amount of the credit the nonprofit organization could claim under G.S. 105-129.16A if it were subject to tax.

(c) No Double Benefit. – A taxpayer who claims a credit under this section based on a donation to a nonprofit organization is not allowed to deduct this donation as a charitable contribution."

SECTION 13.(b) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

…

(19) The amount of a donation made to a nonprofit organization for which a credit is claimed under G.S. 1105-129.16G."

SECTION 13.(c) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

…

(5b) The amount of a donation made to a nonprofit organization for which a credit is claimed under G.S. 105-129.16G."

SECTION 13.(d) G.S. 105-259(b) is amended by adding a new section to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

…

(38) To verify with a nonprofit organization information relating to eligibility for a credit under G.S. 105-129.16G."

SECTION 13.(e) This section is effective for taxable years beginning on or after 1 January 2008.

SECTION 14. The Utilities Commission shall submit to the Governor, the Environmental Review Commission, and the Joint Legislative Utility Review Committee a report on the actual results of the cost allocations established pursuant to G.S. 62-133.7(h), as enacted by Section 2 of this act, G.S. 62-133.8(e) and G.S. 62-133.8(f), as enacted by Section 4 of this act, and G.S. 62-133.2(a2) and G.S. 62-133.2(a3), as enacted by Section 5 of this act, during the preceding two fiscal years on or before 1 October of odd-numbered years. The Utilities Commission shall submit the first report required by this section no later than 1 October 2009.

SECTION 15. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or

provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 16. Sections 1, 2, 6, 7, and 8 of this act become effective 1 January 2008. The provisions of Section 2 of this act that provide for the recovery of costs incurred under Section 2 apply only to costs that are incurred on and after 1 January 2008. Sections 3, 4, 14, 15, and 16 of this act become effective when this act becomes law. The provisions of Section 4 of this act that provide for the recovery of costs incurred under Section 4 apply only to costs that are incurred on and after the date that this act becomes law. Section 5 of this act becomes effective 1 January 2008 provided that (i) the provisions of G.S. 62-133.2, as amended by Section 5 of this act, apply only to fuel and fuel-related costs incurred on and after 1 January 2008 regardless of the test period established by the Utilities Commission, and (ii) the costs described in G.S. 62-133.2(a1)(3) that are incurred on and after the date this act becomes law shall be recoverable as provided in G.S. 62-133.2 as amended by Section 5 of this act. Sections 10, 11, 12, and 13 of this act become effective as provided in those sections. Section 9 of this act becomes effective 1 July 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:20 p.m. on the 20th day of August, 2007.

Session Law 2007-398 **Senate Bill 1096**

AN ACT TO EXEMPT CERTAIN INMATE WORK ASSIGNMENTS FROM THE STATE SURPLUS LAWS, TO REMOVE ANTIQUATED LANGUAGE REGARDING THE USE OF FEMALE INMATES IN PRISON LABOR PROJECTS, AND TO CLARIFY THE LAW REGARDING THE GIFT OR SALE OF CRAFT ITEMS MADE WITH DONATED SUPPLIES AND EQUIPMENT BY VOLUNTEERS WHO ARE INMATES IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-26 is amended by adding a new subsection to read:

"(e1) The Department of Correction may establish work assignments for inmates or allow inmates to volunteer in service projects that benefit units of State or local government or 501(c)(3) entities that serve the citizens of this State. The work assignments may include the use of inmate labor and the use of Department of Correction resources in the production of finished goods. Any products made pursuant to this section shall not be subject to the provisions of Article 3A of Chapter 143 of the General Statutes and may be donated to the government unit or 501(c)(3) organization at no cost."

SECTION 2. G.S. 148-6 reads as rewritten:

"§ **148-6. Custody, employment and hiring out of convicts.**

The State Department of Correction shall provide for receiving, and keeping in custody until discharged by law, all such convicts as may be now confined in the prison and such as may be hereafter sentenced to imprisonment therein by the several courts of this State. The Department shall have full power and authority to provide for employment of such convicts, either in the prison or on farms leased or owned by the State of North Carolina, or elsewhere, or otherwise; and may contract for the hire or employment of any able-bodied convicts upon such terms as may be just and fair, but

such convicts so hired, or employed, shall remain under the actual management, control and care of the ~~Department:~~ Department. ~~Provided, however, that no female convict shall be worked on public roads or streets in any manner.~~"

SECTION 3. G.S. 148-27 is repealed.

SECTION 4. G.S. 148-33 reads as rewritten:

"§ **148-33. Prison labor furnished other State agencies.**

The State Department of Correction may furnish to any of the other State departments, State institutions, or agencies, upon such conditions as may be agreed upon from time to time between the Department and the governing authorities of such Department, institution or agency, prison labor for carrying on any work where it is practical and desirable to use prison labor in the furtherance of the purposes of any State department, institution or agency, and such other employment as is now provided by law for inmates of the State's prison under the provisions of G.S. 148-6: Provided that such prisoners shall at all times be under the custody of and controlled by the duly authorized agent of such Department. Provided, further, that notwithstanding any provisions of law contained in this Article or in this Chapter, no ~~male~~ prisoner or group of ~~male~~ prisoners may be assigned to work in any building utilized by any State department, agency, or institution ~~where women are housed or employed~~ unless a duly designated custodial agent of the Secretary of Correction is assigned to the building to maintain supervision and control of the prisoner or prisoners working there."

SECTION 5. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(b) The provisions of subsection (a) of this section shall not apply to:

…

(25) The gift or sale of any craft items made by inmates in the custody of the Department of Correction as part of a program or initiative established by the Division of Prisons."

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 3:02 a.m. on the 21st day of August, 2007.

Session Law 2007-399 **Senate Bill 1327**

AN ACT TO ADD AN EXCEPTION TO THE CIRCUMSTANCES UNDER WHICH A SURETY ON A BAIL BOND IS NOT REQUIRED TO RETURN THE PREMIUM ON THE BOND UNDER THE LAWS REGULATING BAIL BONDSMEN AND RUNNERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-71-20 is amended by adding new subdivisions to read:

"§ **58-71-20. Surrender of defendant by surety; when premium need not be returned.**

At any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant to the sheriff of the county in which the defendant is bonded to appear or to the sheriff where the defendant was bonded; in such case the full premium shall be returned within 72 hours after the surrender. The defendant may be surrendered without the return of premium for the bond if the defendant does any of the following:

…

(6) Fails to disclose information or provides false information regarding any failure to appear in court, any previous felony convictions within the past 10 years, or any charges pending in any State or federal court.

(7) Knowingly provides the surety with incorrect personal identification, or uses a false name or alias."

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 3:05 a.m. on the 21st day of August, 2007.

Session Law 2007-400 **Senate Bill 1036**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO DEVELOP THE BLUE RIDGE PARKWAY PLATE FOR MOTORCYCLES AND TO ISSUE A SPECIAL REGISTRATION PLATE FOR THE BACK COUNTRY HORSEMEN OF NORTH CAROLINA AND FOR THE MAGGIE VALLEY TROUT FESTIVAL.

The General Assembly of North Carolina enacts:

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

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) In God We Trust.
(7) Stock Car Racing Theme.
(8) Buddy Pelletier Surfing Foundation.
(9) Guilford Battleground Company.
(10) National Wild Turkey Federation.
(11) North Carolina Aquarium Society.

(12) First in Forestry.
(13) North Carolina Wildlife Habitat Foundation.
(14) NC Trout Unlimited.
(15) Ducks Unlimited.
(16) Lung Cancer Research.
(17) NC State Parks.
(18) Support Our Troops.
(19) US Equine Rescue League.
(20) Fox Hunting.
(21) Back Country Horsemen of North Carolina."

SECTION 2. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

…

(13a) Back Country Horsemen of North Carolina. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture of a horseman trail riding and bear the phrase 'Back Country Horsemen of NC.'

…

(68a) Maggie Valley Trout Festival. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the Trout Festival logo.

…"

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Back Country Horsemen of NC	$30.00
Coastal Conservation Association	$30.00
Crystal Coast	$30.00
El Pueblo	$30.00
First in Forestry	$30.00
Historical Attraction	$30.00
HOMES4NC	$30.00
In God We Trust	$30.00
Maggie Valley Trout Festival	$30.00
North Carolina 4-H Development Fund	$30.00
North Carolina Libraries	$30.00
Personalized	$30.00
Share the Road	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Support Our Troops	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00

Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00
NC Children's Promise	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
Animal Lovers	$20.00
ARC of North Carolina	$20.00
Audubon North Carolina	$20.00
Autism Society of North Carolina	$20.00
Be Active NC	$20.00
Breast Cancer Awareness	$20.00
Buddy Pelletier Surfing Foundation	$20.00
Daughters of the American Revolution	$20.00
Ducks Unlimited	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Harley Owners' Group	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
NC Trout Unlimited	$20.00
NC Wildlife Habitat Foundation	$20.00
Omega Psi Phi Fraternity	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None

100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Alpha Phi Alpha Fraternity	$10	$10	0	0
Animal Lovers	$10	$10	0	0
ARC of North Carolina	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Back Country Horsemen of NC	$10	$20	0	0
Be Active NC	$10	$10	0	0
Breast Cancer Awareness	$10	$10	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina's Aviation Museum	$10	$5	0	0
Coastal Conservation Association	$10	$20	0	0
Crystal Coast	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
First in Forestry	$10	$10	$10	0
Goodness Grows	$10	$15	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
HOMES4NC	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
Maggie Valley Trout Festival	$10	$20	0	0

March of Dimes	$10	$10	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
NC Agribusiness	$10	$15	0	0
NC Children's Promise	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
NC 4-H Development Fund	$10	$20	0	0
NC Trout Unlimited	$10	$10	0	0
North Carolina Libraries	$10	$20	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Personalized	$10	0	$15	$5
Prince Hall Mason	$10	$10	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b62) Back Country Horsemen of North Carolina. – The Division must receive 300 or more applications for a Back Country Horsemen of North Carolina plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Back Country Horsemen of North Carolina plates to the Back Country Horsemen of North Carolina to promote the development and maintenance of back country trails for trail riding.

(b63) Maggie Valley Trout Festival. – The Division must receive 300 or more applications for a Maggie Valley Trout Festival plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Maggie Valley Trout Festival plates to the Town of Maggie Valley to promote trout fishing in Maggie Valley."

SECTION 6. G.S. 20-81.12(b2)(1) reads as rewritten:

"(1) Blue Ridge Parkway Foundation. – The revenue derived from the special plate shall be transferred quarterly to Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. The registration fees and the restrictions on the issuance of a specialized registration plate for a motorcycle are the same as for any motor vehicle. The Division must receive a minimum of 300 applications to develop a special registration plate for a motorcycle."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:09 a.m. on the 21st day of August, 2007.

Session Law 2007-401 **Senate Bill 1464**

AN ACT TO AMEND THE WILDLIFE RESOURCES MANAGEMENT LAWS BY AUTHORIZING THE WILDLIFE RESOURCES COMMISSION TO RESPOND TO DISEASE THREATS; BY ALLOWING THE TAKING OF BEAVER WITH BOW AND ARROW; BY AMENDING CERTAIN LAWS GOVERNING THE TAKING OF DEER; BY PROVIDING FOR THE SAFETY OF BOW HUNTERS DURING FIREARMS SEASON; BY PROHIBITING THE FEEDING OF ALLIGATORS; BY ALLOWING THE USE OF ELECTRONIC CALLING DEVICES FOR SNOW GEESE; AND STUDYING THE TRACKING OF WOUNDED WILDLIFE AFTER LEGAL HUNTING HOURS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-306 reads as rewritten:

"§ **113-306. Administrative authority of Wildlife Resources Commission; disposition of license funds; delegation of powers; injunctive ~~relief.~~ relief; emergency powers.**

(a) In the overall best interests of the conservation of wildlife resources, the Wildlife Resources Commission may lease or purchase lands, equipment, and other property; accept gifts and grants on behalf of the State; establish wildlife refuges, management areas, and boating and fishing access areas, either alone or in cooperation with others; provide matching funds for entering into projects with some other governmental agency or with some scientific, educational, or charitable foundation or institution; condemn lands in accordance with the provisions of Chapter 40A of the General Statutes and other governing provisions of law; and sell, lease, or give away property acquired by it. Provided, that any private person selected to receive gifts or benefits by the Wildlife Resources Commission be selected:

(1) With regard to the overall public interest that may result; and

(2) From a defined class upon such a rational basis open to all within the class as to prevent constitutional infirmity with respect to requirements of equal protection of the laws or prohibitions against granting exclusive privileges or emoluments.

(b) Except as otherwise specifically provided by law, all money credited to, held by, or to be received by the Wildlife Resources Commission from the sale of licenses authorized by this Subchapter must be consolidated and placed in the Wildlife Resources Fund.

(c) The Wildlife Resources Commission may, within the terms of policies set by rule, delegate to the Executive Director all administrative powers granted to it.

(d) The Wildlife Resources Commission is hereby authorized and directed to develop a plan and policy of wildlife management for all lands owned by the State of North Carolina which are suitable for this purpose. The Division of State Property and Construction of the Department of Administration shall determine which lands are suitable for the purpose of wildlife management. Nothing in the wildlife management plan shall prohibit, restrict, or require the change in use of State property which is presently being used or will in the future be used to carry out the goals and objectives of the State agency utilizing such land. Each plan of wildlife management developed by the Wildlife Resources Commission shall consider the question of public hunting; and whenever and wherever possible and consistent with the primary land use of the controlling agency, public hunting shall be allowed under cooperative agreement with the Wildlife Resources Commission. Any dispute over the question of public hunting shall be resolved by the Division of State Property and Construction.

(e) Subject to any policy directives adopted by the members of the Wildlife Resources Commission, the Executive Director in his discretion may institute an action in the name of the Wildlife Resources Commission in the appropriate court for injunctive relief to prevent irreparable injury to wildlife resources or to prevent or regulate any activity within the jurisdiction of the Wildlife Resources Commission which constitutes a public nuisance or presents a threat to public health or safety.

(f) The Wildlife Resources Commission may adopt rules governing the exercise of emergency powers by the Executive Director when the Commission determines that such powers are necessary to respond to a wildlife disease that threatens irreparable injury to wildlife or the public. The rules shall provide that the Executive Director must consult with the Commission, the State Veterinarian, and the Governor prior to implementing the emergency powers. The rules shall also specify the method by which the public will be notified of the exercise of emergency powers. The exercise of emergency powers shall not extend for more than 90 days after the Commission's determination that a disease outbreak has occurred, unless a temporary rule is adopted by the Commission in accordance with G.S. 150B-21.1 to replace the emergency powers. If a temporary rule is adopted prior to the expiration of the 90 days, the Executive Director may continue to exercise emergency powers until either a permanent rule to replace the temporary rule becomes effective or the temporary rule expires as provided by G.S. 150B-21.1(d). The Commission's determination that a disease outbreak has occurred shall constitute a basis for adoption of a temporary rule. The emergency powers that may be authorized by rules adopted pursuant to this subsection include:

(1) Prohibiting activities that aid in the transmission or movement of the disease.

(2) Implementing activities to reduce infection opportunities.

(3) Implementing requirements to assist in the detection and isolation of the disease."

SECTION 2. G.S. 113-291.9(a) reads as rewritten:

"(a) Notwithstanding any other law, there is an open season for taking beaver with firearms or bow and arrow during any open season for the taking of wild animals, provided that permission has been obtained from the owner or lessee of the land on which the beaver is being taken."

SECTION 3. G.S. 113-291.2 reads as rewritten:

"§ **113-291.2. Seasons and bag limits on wild animals and birds; including animals and birds taken in bag; possession and transportation of wildlife after taking.**

(a) In accordance with the supply of wildlife and other factors it determines to be of public importance, the Wildlife Resources Commission may fix seasons and bag limits upon the wild animals and wild birds authorized to be taken that it deems necessary or desirable in the interests of the conservation of wildlife resources. The authority to fix seasons includes the closing of seasons completely when necessary and fixing the hours of hunting. The authority to fix bag limits includes the setting of season and possession limits. Different seasons and bag limits may be set in differing areas; early or extended seasons and different or unlimited bag limits may be authorized on controlled shooting preserves, game lands, and public hunting grounds; and special or extended seasons may be fixed for those engaging in falconry, using primitive weapons, or taking wildlife under other special conditions.

Unless modified by rules of the Wildlife Resources Commission, the seasons, shooting hours, bag limits, and possession limits fixed by the United States Department of Interior or any successor agency for migratory game birds in North Carolina must be followed, and a violation of the applicable federal rules is hereby made unlawful. When the applicable federal rules require that the State limit participation in seasons and/or bag limits for migratory game birds, the Wildlife Resources Commission may schedule managed hunts for migratory game birds. Participants in such hunts shall be selected at random by computer, and each applicant 16 years of age or older shall have the required general hunting license and the waterfowl hunting license prior to the drawing for the managed hunt. Each applicant under 16 years of age shall either have the required general hunting license and the waterfowl hunting license or shall apply as a member of a party that includes a properly licensed adult. All applications for managed waterfowl hunts shall be screened prior to the drawing for compliance with these requirements. A nonrefundable fee of ten dollars ($10.00) shall be required of each applicant to defray the cost of processing the applications.

~~Where there is a muzzle-loading firearm season for deer, with a bag limit of five or more, one antlerless deer may be taken. Dogs may not be used for hunting deer during such season.~~

(a1) When the Executive Director of the Wildlife Resources Commission receives a petition from the State Health Director declaring a rabies emergency for a particular county or district pursuant to G.S. 130A-201, the Executive Director of the Wildlife Resources Commission shall develop a plan to reduce the threat of rabies exposure to humans and domestic animals by foxes, raccoons, skunks, or bobcats in the county or district. The plan shall be based upon the best veterinary and wildlife management information and techniques available. The plan may involve a suspension or liberalization of any regulatory restriction on the taking of foxes, raccoons, skunks, or

bobcats, except that the use of poisons, other than those used with dart guns, shall not be permitted under any circumstance. If the plan involves a suspension or liberalization of any regulatory restriction on the taking of foxes, raccoons, skunks, or bobcats, the Executive Director of the Wildlife Resources Commission shall prepare and adopt temporary rules setting out the suspension or liberalization pursuant to G.S. 150B-21.1(a)(1). The Executive Director shall publicize the plan and the temporary rules in the major news outlets that serve the county or district to inform the public of the actions being taken and the reasons for them. Upon notification by the State Health Director that the rabies emergency no longer exists, the Executive Director of the Wildlife Resources Commission shall cancel the plan and repeal any rules adopted to implement the plan. The Executive Director of the Wildlife Resources Commission shall publicize the cancellation of the plan and the repeal of any rules in the major news outlets that serve the county or district.

(b) Any individual hunter or trapper who in taking a wild animal or bird has wounded or otherwise disabled it must make a reasonable effort to capture and kill the animal or bird. All animals and birds taken that can be retrieved must be retrieved and counted with respect to any applicable bag limits governing the individual taking the animal or bird.

(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:

(1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.

(2) The individual may possess and transport the game lawfully taken on a trip:
   a. To his residence;
   b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
   c. From a place authorized in subparagraph b to his residence.

(3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
   a. The applicable possession limit for each species; or
   b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence.

(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission shall adopt rules to regulate the importation, transportation, or

possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease.

(d) Except in the situations specifically provided for above, the Wildlife Resources Commission may by rule impose reporting, permit, and tagging requirements that may be necessary upon persons:

(1) Possessing dead wildlife taken in open season after the close of that season.

(2) Transporting dead wildlife from an area having an open season to an area with a closed season.

(3) Transporting dead wildlife lawfully taken in another state into this State.

(4) Possessing dead wildlife after such transportation.

The Wildlife Resources Commission in its discretion may substitute written declarations to be filed with agents of the Commission for permit and tagging requirements.

(e) Upon application of any landholder or agent of a landholder accompanied by a fee of fifty dollars ($50.00), the Executive Director ~~may require a survey of the deer population on the land of such landholder. If as a result of the survey it is determined that there is an overpopulation of deer in relation to the carrying capacity of the land, that the herd is substantially dependent on such land for its food and cover, and that the imbalance in the deer population is not readily correctable by an either-sex deer season of reasonable length, the Executive Director~~ may issue to such landholder or agent a special license and a number of special antlerless or antlered deer tags that in the judgment of the Executive Director is sufficient to ~~correct or alleviate the population imbalance.~~ accommodate the landholder or the landholder's agent's deer population management objectives or correct any deer population imbalance that may occur on the property. Subject to applicable hunting license requirements, the special deer tags may be used by any person or persons selected by the landholder or his agent as authority to take antlerless deer, including male deer with "buttons" or spikes not readily visible, or antlered deer on the tract of land concerned during any established deer hunting season. ~~Each antlerless deer killed~~ The Executive Director or designee may stipulate on the license that special deer tags for antlered deer, if applicable, may only be valid for deer that meet certain minimum harvest criteria. The Executive Director or designee may also define on the license valid hunt dates that fall outside of the general deer hunting season. Harvested antlerless or antlered deer for which special tags are issued shall be affixed immediately with a special ~~antlerless~~ deer tag and shall be reported immediately in the wildlife cooperator tagging book supplied with the special ~~antlerless~~ deer tags. This tagging book and any unused tags shall be returned to the Commission within 15 days of the close of the season. The Wildlife Resources Commission may offer an alternate reporting system when the Commission determines that such an alternate system is appropriate. Antlerless or antlered deer taken under this program and tagged with the special ~~antlerless~~ tags provided shall not count as part of the daily bag, possession, and season limits of the person taking the deer."

SECTION 4. G.S. 113-291.8(a) reads as rewritten:

"(a) Any person hunting game animals other than foxes, bobcats, raccoons, and opossum, or hunting upland game birds other than wild turkeys, with the use of firearms, must wear a cap or hat on his head made of hunter orange material or an outer garment of hunter orange visible from all sides. Any person hunting deer during a deer firearms season shall wear hunter orange. Hunter orange material is a material that is a daylight fluorescent orange color."

SECTION 5. Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-291.11. Feeding of alligators prohibited.**

It is unlawful to intentionally feed alligators outside of captivity."

SECTION 6. G.S. 113-291.1(f) reads as rewritten:

"(f) To keep North Carolina provisions respecting migratory birds in substantial conformity with applicable federal law and rules, the Wildlife Resources Commission may by rule expand or modify provisions of this Article if necessary to achieve such ~~conformity.~~conformity, including allowing the use of electronic calls. In particular, the Commission may prohibit the use of rifles, unplugged shotguns, live decoys, and sinkboxes in the taking of migratory game birds; vary shooting hours; adopt specific distances, not less than 300 yards, hunters must maintain from areas that have been baited, and fix the number of days afterwards during which it is still unlawful to take migratory game birds in the area; and adopt similar provisions with regard to the use of live decoys. In the absence of rules of the Wildlife Resources Commission to the contrary, the rules of the United States Department of the Interior prohibiting the use of rifles, unplugged shotguns, toxic shot and sinkboxes in taking migratory game birds in North Carolina shall apply, and any violation of such federal rules is unlawful."

SECTION 7. The Wildlife Resources Commission shall study issues related to retrieval of wildlife wounded by hunters. The study shall include consideration of the types of weapons allowed for use, the use of lights, and the use of tracking dogs for retrieval of wounded wildlife without reducing current restrictions preventing illegal hunting. The Commission shall review current State wildlife statutes and the statutes of other jurisdictions and shall seek input from interested parties in conducting the study.

The Commission shall submit a report of its findings and any recommendations for legislation to the 2008 Regular Session of the 2007 General Assembly and to the Chairs of the House Wildlife Resources Committee and the Senate Agriculture and Natural Resources Committee no later than May 1, 2008.

SECTION 8. Section 7 is effective when it becomes law. The remainder of this act becomes effective October 1, 2007, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 3:12 a.m. on the 21st day of August, 2007.

Session Law 2007-402 **House Bill 267**

AN ACT TO ALLOW THE ISSUANCE OF OFF-PREMISES MALT BEVERAGE AND UNFORTIFIED WINE PERMITS TO INCORPORATED MUNICIPALITIES AFTER AN ELECTION ALLOWING THE SALE OF MIXED BEVERAGES, TO AMEND THE LAW CONCERNING THE JANUARY 1, 2008, REQUIREMENT FOR CERTAIN ABC PERMITTEES TO RECYCLE BEVERAGE CONTAINERS, AND TO AUTHORIZE WINEMAKING ON PREMISES BY AN UNFORTIFIED WINERY PERMIT HOLDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-603(d)(3) reads as rewritten:

"(3) The Commission may issue off-premises malt beverage permits to any establishment that meets the requirements under G.S. 18B-1001(2) in any township or incorporated municipality which has voted to permit the sale of mixed beverages, regardless of any other local act concerning sales of those kinds of alcoholic beverages. The Commission may also issue off-premises unfortified wine permits to any establishment that meets the requirements under G.S. 18B-1001(4) in any township or incorporated municipality which has voted to permit the sale of mixed beverages, regardless of any other local act concerning sales of those kinds of alcoholic beverages."

SECTION 2.(a) G.S. 18B-1006.1 reads as rewritten:

"§ **18B-1006.1. (Effective January 1, 2008) Additional requirement for certain permittees to recycle beverage containers.**

Holders of on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverages permits shall separate, store, and provide for the collection for recycling of all recyclable beverage containers of all beverages sold at retail on the premises. A permittee has satisfied the requirements of this ~~subsection~~ section if it implements a recycling program that meets the minimum standards of the model recycling program developed by the Commission pursuant to G.S. 130A-309.14(m). Failure to comply with the requirements of this section shall not be grounds for revocation of a permit."

SECTION 2.(b) G.S. 18B-902 is amended by adding a new subsection to read:

"(h) Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises."

SECTION 2.(c) G.S. 18B-903 is amended by adding a new subsection to read:

"(b2) Each person holding an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall submit, along with the annual registration or renewal application, a current plan for the collection and recycling of all recyclable beverage containers of all beverages sold at retail on the premises."

SECTION 2.(d) A permittee who is not able to find a recycler for its beverage containers by January 1, 2008, may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program in compliance with G.S. 18B-1006.1, as enacted by Section 1 of S.L. 2005-348. The application shall be made in a form specified by the Commission and shall detail the efforts made by the permittee to provide for the collection and recycling of beverage containers and specify the impediments to implementation of a recycling plan. The Commission shall submit all such applications to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources for review and certification. The Division of Pollution Prevention and Environmental Assistance shall investigate each application and shall prepare a summary of its investigation and submit the summary to the Commission along with a notation indicating certification or denial of the application. A permittee whose application for a stay is certified by the Division of Pollution Prevention and

Environmental Assistance shall not be required to comply with alcoholic beverage laws and regulations concerning recycling requirements before January 1, 2009.

SECTION 3. G.S. 18B-1101 is amended by adding a new subdivision to read:

"§ **18B-1101. Authorization of unfortified winery permit.**

The holder of an unfortified winery permit may:

…

(8) Allow winemaking on premises as allowed by a permit issued pursuant to G.S. 18B-1001(17)."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:15 a.m. on the 21st day of August, 2007.

Session Law 2007-403 **House Bill 118**

AN ACT TO PROVIDE THAT A PERSON CHARGED WITH A SEX OFFENSE WHO IS ORDERED TO BE TESTED FOR A SEXUALLY TRANSMITTED INFECTION MUST BE TESTED WITHIN FORTY-EIGHT HOURS OF THE COURT ORDER AND TO PROVIDE THAT HIV TESTING UNDER THESE PROVISIONS WILL USE THE HIV-RNA DETECTION TEST FOR DETERMINING HIV INFECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-615(b) reads as rewritten:

"(b) Upon a request under subsection (a) of this section, the district attorney shall petition the court on behalf of the victim for an order requiring the defendant to be tested. Upon finding that there is probable cause to believe that the alleged sexual contact involved in the offense would pose a significant risk of transmission of a sexually transmitted infection listed in subsection (a) of this section, the court shall order the defendant to submit to testing for these infections. A defendant ordered to be tested under this section shall be tested not later than 48 hours after the date of the court order. A test for HIV ordered pursuant to this section shall use the HIV-RNA Detection Test for determining HIV infection."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 3:17 a.m. on the 21st day of August, 2007.

Session Law 2007-404 **Senate Bill 1495**

AN ACT TO REQUIRE THAT A VEHICLE USED TO TOW OR TRANSPORT ANOTHER VEHICLE BE MARKED SO THAT THE OWNER MAY BE IDENTIFIED AND TO ADD AN EXEMPTION FROM THE SEAT BELT LAW FOR DRIVERS OR PASSENGERS OF A RESIDENTIAL GARBAGE OR RECYCLING TRUCK WHILE THE TRUCK IS OPERATING DURING

COLLECTION ROUNDS AND WHILE TRAVELING TO AND FROM GARBAGE AND RECYCLING MATERIAL LOADING AND UNLOADING LOCATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-101 reads as rewritten:

"§ **20-101. Certain business vehicles to be marked.**

(a) A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety regulations, shall be marked as required by that Part.

(b) A motor vehicle that is not subject to ~~those regulations,~~49 C.F.R. Part 390, has a gross vehicle weight rating of more than 10,000 pounds, but less than 26,001 pounds, and is used in intrastate commerce, and is not a farm vehicle, as further described in G.S. 20-118(c)(4), (c)(5), or (c)(12), shall have the name of the owner printed on the side of the vehicle in letters not less than three inches in height.

(c) A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section.

(d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the purpose of towing or transporting another motor vehicle, shall have the name and address of the registered owner of the vehicle, and the name of the business or person being hired if different, printed on the side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to 49 C.F.R. Part 390.

SECTION 2. G.S. 20-135.2A(c) is amended by adding a new subdivision to read:

(8) A driver or passenger of a residential garbage or recycling truck while the truck is operating during collection rounds, and while traveling to and from garbage and recycling material loading and unloading locations.

SECTION 3. This act becomes effective December 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 3:20 a.m. on the 21st day of August, 2007.

Session Law 2007-405 **House Bill 508**

AN ACT TO AUTHORIZE MITCHELL COUNTY AND THE TOWNS OF BILTMORE FOREST, BLACK CREEK, BLACK MOUNTAIN, BLOWING ROCK, OCEAN ISLE BEACH, SUNSET BEACH, AND TABOR CITY TO ENROLL ITS EMPLOYEES OR RETIREES IN THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 31.26(j) of S.L. 2004-124, as amended by Section 29.32 of S.L. 2005-276, reads as rewritten:

"**SECTION 31.26.(j)** This section applies to:

(1) Bladen, Cherokee, Mitchell, Rutherford, Washington, and Wilkes Counties only, and

(2) The ~~Town~~ Towns of Biltmore Forest, Black Creek, Black Mountain, Blowing Rock, Forest ~~City~~ City, Ocean Isle Beach, Sunset Beach, and Tabor City only."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:25 a.m. on the 21st day of August, 2007.

Session Law 2007-406 **Senate Bill 1332**

AN ACT AUTHORIZING THE NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS BOARD TO INCREASE CERTAIN FEES AND AMENDING AND UPDATING CERTAIN OTHER PROVISIONS UNDER THE LAWS REGULATING HEARING AID DEALERS AND FITTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93D-3(c)(14)f. reads as rewritten:

"(c) The Board shall:

…

(14) Have the power to set and collect fees in accordance with Chapter 150B of the General Statutes for the items listed in this subdivision and for other items for which this Chapter gives the Board the authority to set a fee:

…

f. For administering an examination, a fee ~~not to exceed seventy-five dollars ($75.00);~~of three hundred dollars ($300.00); and

…."

SECTION 2. G.S. 93D-3(d) reads as rewritten:

"(d) ~~Out of the funds coming into the possession of said Board, each member thereof may receive as reimbursement for each day he is actually engaged in the assigned duties of his office, the sum of eight cents (8¢) per mile for travel plus the actual costs of meals and public lodging while away from home, which costs of meals and lodging may not exceed twenty dollars ($20.00) per day. Such~~Members of the Board shall be entitled to travel, per diem, and other expenses authorized by G.S. 93B-5. The expenses shall be paid from the fees and assessments received by the Board under the provisions of this Chapter. No part of these expenses or any other expenses of the Board, in any manner whatsoever, shall be paid out of the State treasury. All moneys received in excess of expense allowance and mileage, as above provided, shall be held by the secretary-treasurer as a special fund for meeting other expenses of the Board and carrying out the provisions of this Chapter.

~~The secretary-treasurer shall give a bond to the Board to be approved by the Board, in the sum of five thousand dollars ($5,000) conditioned upon the faithful performance of the duties of his office.~~

The Board shall make an annual report of its proceedings ~~to the Governor on the first Monday in June of each year, which report shall contain an account of all moneys received and disbursed by the Board and a complete listing of names and addresses of all licensees and apprentices. Copies of the report and list of licensees and apprentices~~

~~shall be filed in the office of the State Auditor, the Secretary of State, and Attorney General.~~in accordance with G.S. 93B-2."

SECTION 3. G.S. 93D-5 reads as rewritten:

"(a) No person shall begin the fitting and selling of hearing aids in this State unless the person has been issued a license by the Board or is an apprentice working under the supervision of a licensee. Except as hereinafter provided, each applicant for a license shall pay a fee set by the Board, not to exceed ~~one hundred fifty dollars ($150.00),~~two hundred fifty dollars ($250.00), which fee may be prorated by the Board, and shall show to the satisfaction of the Board that the applicant:

(1) Is a person of good moral ~~character,~~character.

(2) Is 18 years of age or ~~older,~~older.

(3) Has an education equivalent to a four-year course in an accredited high ~~school,~~school.

~~(4) Is free of contagious or infectious disease.~~

(b) Except as hereinafter provided, no license shall be issued to a person until he has successfully passed a qualifying examination administered by the Board.

(c) No license shall be issued to any person until ~~he~~the person has served as an apprentice as set forth in G.S. 93D-9 for a period of at least one year; provided, that this subsection shall not apply to those persons qualified under G.S. 93D-6 nor to those persons holding ~~masters degrees~~a license in Audiology issued by the North Carolina Board of Examiners for Speech and Language Pathologist and Audiologist who have undergone 250 hours of supervised activity fitting and selling hearing aids under the direct supervision of a licensed hearing aid ~~dealer~~ dispenser approved by the Board, or have met the licensure requirements under Article 22 of Chapter 90 of the General Statutes and have worked full time for one year fitting and selling hearing aids in the office of and under the direct supervision of an otolaryngologist and have participated in 250 hours of Board-supervised, continuing professional education in fitting hearing aids."

SECTION 4. G.S. 93D-11 reads as rewritten:

"§ **93D-11. Annual fees; failure to pay; expiration of license; occupational instruction courses.**

Every licensed person who engages in the fitting and selling of hearing aids shall pay to the Board an annual license renewal fee in an amount set by the Board, not to exceed ~~one hundred fifty dollars ($150.00). Such~~two hundred fifty dollars ($250.00). The payment shall be made prior to the first day of April in each year. In case of default in payment the license shall expire 30 days after notice by the secretary-treasurer to the last known address of the licensee by registered ~~mail.~~mail, certified mail, or in a manner provided by G.S. 1A-1, Rule 4(j)(1)d. The Board may reinstate an expired license upon the showing of good cause for late payment of fees, upon payment of said fees within 60 days after expiration of the license, and upon the further payment of a late penalty of twenty-five dollars ($25.00). After 60 days after the expiration date, the Board may reinstate the license for good cause shown upon application for reinstatement and payment of a late penalty of fifty dollars ($50.00) and the renewal fee. The Board may require all licensees to successfully attend and complete a course or courses of occupational instruction funded, conducted or approved or sponsored by the Board on an annual basis as a condition to any license renewal and evidence of satisfactory attendance and completion of any such course or courses shall be provided the Board by the licensee."

SECTION 5. G.S. 93D-13 reads as rewritten:

"§ **93D-13. Discipline, suspension, revocation of ~~licenses.~~licenses; records.**

(a) The Board may in its discretion administer the punishment of private reprimand, suspension of license for a fixed period or revocation of license as the case may warrant in their judgment for any violation of the rules and regulations of the Board or for any of the following causes:

~~(1)~~ ~~Habitual drunkenness~~

(2) Gross ~~incompetence~~incompetence.

(3) ~~Knowingly fitting and selling hearing aids while suffering with a contagious or infectious disease~~Inability to perform the functions for which the person is licensed or substantial impairment of the person's ability to perform the functions for which the person is licensed by reason of physical or mental disability.

(4) Commission of a criminal offense indicating professional ~~unfitness~~unfitness.

(5) The use of a false name or alias in ~~his business~~his or her business.

(6) Conduct involving willful ~~deceit~~deceit.

(7) Conduct involving fraud or any other business conduct involving moral ~~turpitude~~turpitude.

(8) Advertising of a character or nature tending to deceive or mislead the ~~public~~public.

(9) Advertising declared to be unethical by the Board or prohibited by the code of ethics established by the ~~Board~~Board.

(10) Permitting another person to use ~~his license,~~his or her license.

(10a) Failure by a licensee to properly supervise an apprentice under ~~his supervision, and~~his or her supervision.

(11) For violating any of the provisions of this Chapter.

(b) Board action in revoking or suspending a license shall be in accordance with Chapter 150B of the General Statutes. Any person whose license has been suspended for any of the grounds or reasons herein set forth, may, after the expiration of 90 days but within two years, apply to the Board to have the same reissued; upon a showing satisfactory to the Board that ~~such~~ reissuance will not endanger the public health and welfare, the Board may reissue a license to such person for a fee set by the Board, not to exceed two hundred dollars ($200.00). If application is made subsequent to two years from date of suspension, reissuance shall be in accordance with the provisions of G.S. 93D-8.

(c) Records, papers, and other documents containing information collected or compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with registration, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered by the Board in connection with a hearing is a public record. However, information that identifies a consumer who has not consented to the public disclosure of services rendered to the consumer by a person registered or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected or compiled by or on behalf of the Board shall be public records, provided that any information that identifies a consumer who has not consented to the public disclosure of services rendered to the consumer is deleted."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:33 a.m. on the 21st day of August, 2007.

Session Law 2007-407 **Senate Bill 1117**

AN ACT TO PROVIDE THAT THE PRESIDING TRIAL JUDGE IN CIVIL CASES HAS THE SOLE DISCRETION TO DETERMINE WHETHER JURORS MAY TAKE INTO THE JURY ROOM EXHIBITS INTRODUCED INTO EVIDENCE AND PASSED TO THE JURY IN THE COURSE OF THE TRIAL, PHOTOGRAPHS ADMITTED INTO EVIDENCE, SHOWN TO THE JURY AND USED BY ANY WITNESSES IN THEIR TESTIMONY, AND ANY ILLUSTRATIVE EXHIBIT ADMITTED INTO EVIDENCE AND USED BY ANY WITNESSES IN THEIR TESTIMONY EXCEPT SUMMARIES OF TESTIMONY, LISTS MADE IN THE COURTROOM AND SUCH SIMILAR DOCUMENTS AND THAT THE CONSENT OF ALL PARTIES IS NOT NECESSARY, AND TO PROVIDE THAT DEPOSITIONS MAY ONLY BE TAKEN INTO THE JURY ROOM WITH CONSENT OF THE PARTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"**§ 1-181.2. Use of evidence by the jury.**

(a) If the jury in a civil action after retiring for deliberation requests a review of certain testimony or other evidence, the jurors must be conducted to the courtroom. The court in its discretion, after notice to the parties and giving the parties an opportunity to be heard, may direct that requested parts of the testimony be read to the jury and may permit the jury to reexamine in open court the requested materials admitted into evidence. The court in its discretion may also have the jury review other evidence relating to the same factual issue so as not to give undue prominence to the evidence requested.

(b) Upon request by the jury, the court may in its discretion and after permitting the parties an opportunity to be heard permit the jury to take into the jury room admitted exhibits which have been passed to the jury, photographs admitted into evidence and shown to the jury and used by any witnesses in their testimony before the jury, and any illustrative exhibits admitted into evidence and used by any witnesses in their testimony before the jury. Summaries of testimony prepared in the courtroom by any party, lists made by any party in the courtroom and such similar documents shall not be sent to the jury room with the jury, even if admitted into evidence and requested by the jury. Depositions may be taken into the jury room upon request of the jury only with consent of the parties.

(c) Upon request by the jury, the court may permit the jury to take into the jury room any exhibit that all parties stipulate and agree may be taken into the jury room.

(d) In sending any exhibits to the jury, the court should ensure that the evidentiary integrity of the exhibit is preserved."

SECTION 2. This act becomes effective for trials commencing on or after October 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 3:35 a.m. on the 21st day of August, 2007.

Session Law 2007-408 **Senate Bill 1303**

AN ACT TO ESTABLISH A MOUNTAIN HERITAGE TROUT WATERS THREE-DAY FISHING LICENSE AND TO DIRECT THE WILDLIFE RESOURCES COMMISSION TO ADOPT RULES TO ESTABLISH AND IMPLEMENT A MOUNTAIN HERITAGE TROUT WATERS PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-272 reads as rewritten:

"§ **113-272. Special trout license.**

(a) License Required. – Except as provided in G.S. 113-270.1D, G.S. 113-270.1C(b), and G.S. 113-271(a), no one may fish in public mountain trout waters without having first procured a current and valid special trout license in addition to a hook-and-line fishing license required in G.S. 113-271. When public mountain trout waters occur on game lands, this license entitles the holder to use game lands only for the purpose of access to public mountain trout waters to fish with hook and line.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 684, s. 5, effective July 1, 1995.

(c) Definitions. – As used in this section:

(1) City has the same meaning as in G.S. 160A-1.

(2) Public mountain trout waters are those waters so designated by the Wildlife Resources Commission which are managed and regulated to sustain a mountain trout fishery.

(3) Mountain heritage trout waters are those waters that have been designated as public mountain trout waters by the Wildlife Resources Commission, and that run through or are adjacent to a city that has been designated as a Mountain Heritage Trout City pursuant to G.S. 113-272.3(e).

(d) Special Trout ~~License~~ License: Fee. – $10.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to fish with hook and line in public mountain trout waters."

SECTION 2. G.S. 113-272 reads as rewritten:

"§ **113-272. Special trout ~~license.~~license; mountain heritage trout waters 3-day fishing license.**

…

(e) Mountain Heritage Trout Waters 3-Day Fishing License: Fee. – $5.00. This license shall be issued to an individual resident or nonresident of the State and shall entitle the holder to fish in waters designated by the Wildlife Resources Commission as mountain heritage trout waters for the three consecutive days indicated on the license. An individual who holds a mountain heritage trout waters 3-day fishing license does not need to hold a hook-and-line fishing license issued pursuant to G.S. 113-271 in order to fish in mountain heritage trout waters."

SECTION 3. G.S. 133-272.3 reads as rewritten:

"§ **113-272.3. Special provisions respecting fishing licenses; grabbling; taking bait fish; use of landing nets; lifetime licenses issued from Wildlife Resources Commission headquarters; personalized lifetime sportsman combination ~~licenses.~~licenses; Mountain Heritage Trout Waters Program.**

(a) The Wildlife Resources Commission by rule may define the meaning of "hook and line" and "special device" as applied to fishing techniques. Any technique of fishing that may be lawfully authorized which employs neither the use of any special device nor hook and line must be pursued under the appropriate hook-and-line fishing license.

(b) In accordance with established fishing customs and the orderly conservation of wildlife resources, the Wildlife Resources Commission may by rule provide for use of nets or other special devices which it may authorize as an incident to hook-and-line fishing or for procuring bait fish without requiring a special device license. In this instance, however, the individual fishing must meet applicable hook-and-line license requirements.

(c) Lifetime licenses are issued from the Wildlife Resources Commission headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime Sportsman License must be accompanied by a certified copy of the birth certificate, adoption order containing the date of birth, or other proof of age satisfactory to the Commission, of the individual to be named as the licensee.

(d) In issuing lifetime licenses, the Wildlife Resources Commission is authorized to adopt rules to establish a personalized series for certain license types and to charge a five dollar ($5.00) administrative fee, to be deposited in the Wildlife Fund, to defray the cost of issuance of the personalized license.

(e) Mountain Heritage Trout Waters Program. – The Wildlife Resources Commission shall adopt rules to establish and implement a Mountain Heritage Trout Waters Program to promote trout fishing as a heritage tourism activity. The Commission shall develop criteria for participation in the Program by cities and prepare a management plan for mountain heritage trout waters. A city that meets the criteria for participation in the Program shall be designated by the Commission as a Mountain Heritage Trout City."

SECTION 4. Section 2 of this act becomes effective July 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 2:30 p.m. on the 21st day of August, 2007.

Session Law 2007-409 **Senate Bill 1292**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ADOPT A POLICY REQUIRING TEACHERS TO TAKE CREDITS IN THEIR ACADEMIC SUBJECT AREA AS PART OF THE LICENSURE RENEWAL PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall adopt a policy that requires:

(1) Teachers of grades kindergarten through eight to take three renewal credits in their academic subject areas, including strategies to teach those subjects, during each five-year license renewal cycle and

(2) Teachers in grades nine through twelve to take three credits in their academic subject areas, including strategies to teach those subjects, during each five-year license renewal cycle.

For teachers who are in the fourth or fifth year of their current five-year license renewal cycle, this policy shall apply beginning with the first year of their next five-year license renewal cycle. The State Board may provide for exceptions to this policy for teachers seeking certification or renewal of certification by the National Board for Professional Teaching Standards.

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 2:35 p.m. on the 21st day of August, 2007.

Session Law 2007-410 **House Bill 628**

AN ACT TO CREATE A UNIFORM CO-PAYMENT SCHEDULE FOR MH/DD/SA SERVICES AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-146 reads as rewritten:

"§ **122C-146. ~~Fee for service.~~Uniform co-payment schedule.**

(a) The ~~area authority~~LME and its contractual provider agencies shall ~~prepare fee schedules~~ implement the co-payment schedule based on family income adopted by the Secretary ~~for services and~~ under G.S. 122C-112.1(a)(34). The LME is responsible for determining the applicability of the co-payment to individuals authorized by the LME to receive services. An LME that provides services and its contractual provider agencies shall also make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party ~~payment, except that individuals~~ payments. However, no individual may be refused services because of an inability to pay.

(b) Individuals may not be charged for free services, as required in "The Amendments to the Education of the Handicapped Act", P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption from charges does not exempt insurers or other third-party payors from being charged for payment for these services, if the person who is legally responsible for any eligible infant or toddler is first advised that the person may or may not grant permission for the insurer or other payor to be billed for the free services. ~~However, no individual may be refused services because of an inability to pay.~~

(c) All funds collected from ~~fees from area authority~~co-payments for LME operated services shall be used ~~for the fiscal operation or capital improvements of the area authority's programs.~~to provide services to individuals in targeted populations.

The collection of ~~fees~~ co-payments by ~~an area authority~~ an LME that provides services may not be used as justification for reduction or replacement of the budgeted

commitment of local tax revenue. All funds collected from co-payments by contractual provider agencies shall be used to provide services to individuals in targeted populations."

SECTION 2. G.S. 122C-112.1(a) is amended by adding a new subdivision to read:

"§ **122C-112.1. Powers and duties of the Secretary.**

(a) The Secretary shall do all of the following:

…

(34) Adopt rules for the implementation of a co-payment graduated schedule to be used by LMEs and by contractual provider agencies under G.S. 122C-146. The co-payment graduated schedule shall be developed to require a co-payment for services identified by the Secretary. Families whose family income is three hundred percent (300%) or greater of the federal poverty level are eligible for services with the applicable co-payment."

SECTION 3. The Secretary of the Department of Health and Human Services shall identify all services that are funded by or through the Department's budget and that do not require income-based criteria in order for an individual to be eligible to receive the service. The Secretary shall develop a proposal for implementing income-based criteria for eligibility for those programs and shall submit the proposal to the General Assembly and the Fiscal Research Division by November 1, 2007.

SECTION 4. Section 1 of this act becomes effective July 1, 2008, and applies to services provided on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 2:40 p.m. on the 21st day of August, 2007.

Session Law 2007-411 **House Bill 535**

AN ACT TO AUTHORIZE CRIMINAL BACKGROUND REVIEWS FOR CURRENT AND FUTURE EMS PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-159 is amended by adding a new subsection to read:

"(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials is subject to a criminal background review by the Department. At the request of the Department, the Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee shall keep all information obtained pursuant to this subsection confidential. The Medical Care Commission shall adopt rules to implement the provisions of this subsection, including rules to establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant to G.S. 114-19.21."

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

"§ **114-19.21. Criminal record checks of EMS personnel.**

The Department of Justice may provide to the Department of Health and Human Services the criminal history from the State and National Repositories of Criminal Histories of an individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials, when the criminal history is requested by the Department. The Department of Health and Human Services shall provide to the Department of Justice the request for the criminal history, the fingerprints of the individual to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The Department of Health and Human Services and Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall keep all information obtained pursuant to this section confidential. The Department of Justice shall charge a reasonable fee to offset the costs incurred by it to conduct the checks of criminal history records authorized by this section."

SECTION 3. G.S. 143-519(a) reads as rewritten:

"(a) There is created ~~an~~ the Emergency Medical Services Disciplinary ~~Committee which~~Committee. The Committee shall review and make recommendations to the Department regarding all disciplinary matters relating to credentialing of emergency medical services personnel. At the request of the Department, the Committee shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials."

SECTION 4. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 2:42 p.m. on the 21st day of August, 2007.

Session Law 2007-412 **House Bill 573**

AN ACT TO PROVIDE THAT A DISTRICT COURT JUDGE OR SUPERIOR COURT JUDGE WHO HAS A CONCEALED HANDGUN PERMIT MAY CARRY OR POSSESS A CONCEALED HANDGUN WHILE IN A COURTHOUSE TO DISCHARGE OFFICIAL DUTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-269.4 reads as rewritten:

"§ **14-269.4. Weapons on State property and in courthouses.**

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then this prohibition shall apply only

to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to:

(1) Repealed by S.L. 1997-238, s. 3.

(1a) A person exempted by the provisions of G.S. 14-269(b),

(2) through (4) Repealed by S.L. 1997-238, s. 3.

(4a) Any person in a building housing a court of the General Court of Justice in possession of a weapon for evidentiary purposes, to deliver it to a law-enforcement agency, or for purposes of registration,

(4b) Any district court judge or superior court judge who carries or possesses a concealed handgun in a building housing a court of the General Court of Justice if the judge is in the building to discharge his or her official duties and the judge has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24.

(5) State-owned rest areas, rest stops along the highways, and State-owned hunting and fishing reservations.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 2:46 p.m. on the 21st day of August, 2007.

Session Law 2007-413 **Senate Bill 1353**

AN ACT PROVIDING FOR A REVIEW OF THE APPLICATION OF THE STATE PERSONNEL ACT TO EMPLOYEES OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The President of The University of North Carolina (UNC) shall appoint a Task Force to examine the application of the State Personnel Act to the University of North Carolina with a goal of making recommendations that will:

(1) Improve the ability of the University to attract, reward, and retain high quality employees;

(2) Enable the University to better meet the needs of its employees; and

(3) Improve the efficiency of UNC personnel operations.

The Task Force membership shall include chancellors, representatives of the UNC Staff Assembly who are subject to the State Personnel Act, human resources professionals, other UNC employees exempt from the State Personnel Act, and a representative of the Office of State Personnel.

SECTION 1.(b) The Task Force shall report to the President of The University of North Carolina and to the UNC Board of Governors by January 15, 2008. By March 24, 2008, the UNC Board of Governors shall forward the recommendations that it approves, as presented or as modified, to the Joint Legislative Education Oversight Committee of the General Assembly for consideration of any legislative proposals during the 2008 Regular Session.

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 2:50 p.m. on the 21st day of August, 2007.

Session Law 2007-414 **Senate Bill 556**

AN ACT AUTHORIZING MUNICIPALITIES TO ADOPT ORDINANCES ESTABLISHING A NONRESIDENTIAL BUILDING OR STRUCTURE CODE.

The General Assembly of North Carolina enacts:

SECTION 1. Part 5 of Article 19 of Chapter 160A of the General Statutes is amended by adding the following new section to read:

"**§ 160A-439. Ordinance authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.**

(a) Authority. – The governing body of the city may adopt and enforce ordinances relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing body. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The ordinance shall provide for designation or appointment of a public officer to exercise the powers prescribed by the ordinance, in accordance with the procedures specified in this section. Such ordinance shall only be applicable within the corporate limits of the city.

(b) Investigation. – Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing body, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(c) Complaint and Hearing. – If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the public officer (or his or her designated agent) at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(d) Order. – If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing body, the

public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) Limitations on Orders. –

(1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing body or to vacate and close the nonresidential building or structure for any use.

(2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing body determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing body.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(f) Action by Governing Body Upon Failure to Comply With Order. –

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing body may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who

occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing body may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing body. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

(g) Action by Governing Body Upon Abandonment of Intent to Repair. – If the governing body has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing body may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing body may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing body may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

(h) Service of Complaints and Orders. – Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered or certified mail so long as the means used are

reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(i) Liens. –

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(3) If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(j) Ejectment. – If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the city to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer

produces a certified copy of an ordinance adopted by the governing body pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing body has ordered the public officer to proceed to exercise his duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(k) Civil Penalty. – The governing body may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing body for the enforcement of any ordinances adopted pursuant to this section.

(l) Powers Supplemental. – The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing body may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

(1) To investigate nonresidential buildings and structures in the city to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises pursuant to subsection (b) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing body.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and agents.

(m) Appeals. – The governing body may provide that appeals may be taken from any decision or order of the public officer to the city's housing appeals board or zoning board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160A-446.

(n) Funding. – The governing body is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing body.

(o) No Effect on Just Compensation for Taking by Eminent Domain. – Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent

domain under the laws of this State, nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

(p) Definitions. –

(1) "Parties in interest" means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

(2) "Vacant manufacturing facility" means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

(3) "Vacant industrial warehouse" means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use."

SECTION 2. Part 4 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-372.1. Ordinance authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.**

The provisions of G.S. 160A-439 shall apply to counties."

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

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 2:51 p.m. on the 21st day of August, 2007.

Session Law 2007-415 **Senate Bill 806**

AN ACT TO LENGTHEN THE TIME GOODS PURCHASED BY PAWNBROKERS MUST BE HELD BEFORE RESALE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 91A-10(7) reads as rewritten:

"§ **91A-10. Prohibitions.**

A pawnbroker shall not:

…

(7) Sell, exchange, barter, or remove from the pawnshop any goods pledged, pawned, or purchased ~~earlier than 48 hours~~ before the earlier of seven days after the date the pawn ticket record is electronically reported in accordance with G.S. 91A-7(d) or 30 days after the transaction, except in case of redemption by pledgor or items purchased for resale from wholesalers;

…."

SECTION 2. G.S. 91A-7(d) reads as rewritten:

"(d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the pawnbroker. These records shall be available for inspection and pickup each regular workday by the sheriff of the ~~county~~ county, or the sheriff's designee or the chief of ~~police~~ police, or the chief's designee of the municipality in which the pawnshop is located. These records may be electronically reported to the sheriff of the county or the

chief of police of the municipality in which the pawnshop is located by transmission over the Internet or by facsimile transmission in a manner authorized by the applicable sheriff or chief of police. These records shall be a correct copy of the entries made of the pawn or purchase transaction and shall be carefully preserved without alteration, and shall be available during regular business hours."

SECTION 3. This act becomes effective October 1, 2007, and applies to goods taken by a pawnbroker in pledge, pawn, or purchase on or after that date.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 2:58 p.m. on the 21st day of August, 2007.

Session Law 2007-416 **House Bill 1829**

AN ACT AUTHORIZING THE NORTH CAROLINA MANUFACTURED HOUSING BOARD TO USE ALTERNATIVE METHODS FOR CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR LICENSURE UNDER THE LAWS REGULATING MANUFACTURED HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-143.10A(b) reads as rewritten:

"(b) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. ~~The~~Applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Each applicant is required to pay the designated service for the cost of the criminal record report. In the alternative, the Board ~~shall be responsible for providing~~may provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 2:58 p.m. on the 21st day of August, 2007.

Session Law 2007-417 **Senate Bill 747**

AN ACT TO ESTABLISH REQUIREMENTS FOR BUILDER DESIGNATIONS UNDER THE LAWS PERTAINING TO GENERAL CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 87 of the General Statutes is amended by adding a new section to read:

"**§ 87-15.4. Builder designations created.**

(a) A licensee who successfully completes the educational requirements for accredited builder or accredited master builder, as established by the North Carolina Builders Institute (Institute), shall be designated by the Board as a 'North Carolina Certified Accredited Residential Builder' or 'North Carolina Certified Accredited Master Residential Builder,' respectively. The Institute shall provide to the Board written certification of those licensees who have successfully completed the requirements for the designations. The certification shall remain in effect as long as: (i) the licensee's license is in effect pursuant to G.S. 87-10; and (ii) the licensee completes at least eight hours of continuing education each calendar year as certified by the Institute.

(b) The Board shall approve for designation a licensee who has successfully completed a course of study, deemed by the Board to be equivalent to the educational requirements under subsection (a) of this section, offered by a community college or by another provider, and who completes the requisite number of hours of continuing education required by the Board.

(c) The Board may use all powers granted to it under this Article to enforce the provisions of this section and ensure that the designations created by this section are conferred upon and used only by a licensee who complies with the provisions of this section and any rules adopted by the Board."

SECTION 2. Any individual currently licensed by the State Licensing Board of General Contractors (Board) who has successfully completed the requirements of G.S. 87-15.4, as enacted by Section 1 of this act, before the effective date of this act may be designated by the Board as a "North Carolina Certified Accredited Residential Builder" or "North Carolina Certified Accredited Master Residential Builder" upon submitting to the Board certification from the North Carolina Builders Institute of successful completion of the requirements of G.S. 87-15.4.

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 2:59 p.m. on the 21st day of August, 2007.

Session Law 2007-418 **House Bill 1381**

AN ACT AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO RAISE THE CEILING ON CERTAIN LICENSURE FEES AND AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD TO ESTABLISH AND INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed ~~twenty-five dollars ($25.00).~~fifty dollars ($50.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).

(3) For issuance of any license, a fee not to exceed ~~one hundred dollars ($100.00).~~one hundred fifty dollars ($150.00).

(4) For the renewal of any license, a fee not to exceed ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00).

(5) For the late renewal of any license, an additional late fee not to exceed ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00).

(6) For a license with a provisional or temporary endorsement, a fee not to exceed ~~thirty-five dollars ($35.00).~~fifty dollars ($50.00).

(7) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing.

(8) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).

(9) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00)."

SECTION 2. G.S. 90-9, 90-10, and 90-13 are repealed.

SECTION 3. If House Bill 818, 2007 Regular Session, becomes law, then G.S. 90-8.2 reads as rewritten:

"§ **90-8.2. Appointment of subcommittees.**

(a) The North Carolina Medical Board shall appoint and maintain a subcommittee to work jointly with a subcommittee of the Board of Nursing to develop rules to govern the performance of medical acts by registered nurses, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). ~~The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00).~~ Rules developed by this subcommittee from time to time shall govern the performance of medical acts by registered nurses and shall become effective when adopted by both the North Carolina Medical Board and the Board of Nursing. The North Carolina Medical Board shall have responsibility for securing compliance with these rules.

(b) The North Carolina Medical Board shall appoint and maintain a subcommittee of four licensed physicians to work jointly with a subcommittee of the North Carolina Board of Pharmacy to develop rules to govern the performance of medical acts by clinical pharmacist practitioners, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). ~~The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00).~~ Rules recommended by the subcommittee shall be adopted in accordance with Chapter 150B of the General Statutes by both the North Carolina Medical Board and the North Carolina Board of Pharmacy and shall not become effective until adopted by both Boards. The North Carolina Medical Board shall have responsibility for ensuring compliance with these rules."

SECTION 4. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-12A. Limited license to practice in a medical education and training program.**

(a) As provided in rules adopted by the Board, the Board may issue a limited license known as a 'resident's training license' to a physician not otherwise licensed by the Board who is participating in a graduate medical education training program.

(b) A resident's training license shall become inactive at the time its holder ceases to be a resident in a training program or obtains any other license to practice medicine issued by the Board. The Board shall retain jurisdiction over the holder of the inactive license."

SECTION 5. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-12.1A. Limited volunteer license.**

(a) The Board may issue a 'military limited volunteer license' to an applicant who:

(1) Has a license to practice medicine and surgery in another state;

(2) Produces a letter from the state of licensure indicating the applicant is in good standing; and

(3) Is authorized to treat personnel enlisted in a branch of the United States armed services or veterans.

(b) The Board may issue a 'retired limited volunteer license' to an applicant who is a retired physician and has allowed his or her license to practice medicine and surgery in this State or another state to become inactive.

(c) A physician holding a limited license under this section shall comply with the continuing medical education requirements pursuant to rules adopted by the Board.

(d) The Board shall issue a limited license under this section within 30 days after an applicant provides the Board with information satisfying the requirements of this section.

(e) The holder of a limited license under this section may practice medicine and surgery only at clinics that specialize in the treatment of indigent patients. The holder of the limited license may not receive compensation for services rendered at clinics specializing in the care of indigent patients.

(f) The holder of a limited license issued pursuant to this section who practices medicine or surgery at places other than clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. The Board, in its discretion, may revoke the limited license after due notice is given to the holder of the limited license.

(g) The Board may, by rule, require an applicant for a limited license under this section to comply with other requirements or submit additional information the Board deems appropriate."

SECTION 6. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-12.2A. Special purpose license.**

(a) The Board may issue a special purpose license to practice medicine to an applicant who:

(1) Holds a full and unrestricted license to practice in at least one other jurisdiction; and

(2) Does not have any current or pending disciplinary or other action against him or her by any medical licensing agency in any state or other jurisdiction.

(b) The holder of the special purpose license practicing medicine or surgery beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than fifty

dollars ($50.00) for each offense. The Board, at its discretion, may revoke the special license after due notice is given to the holder of the special purpose license.

(c) The Board may adopt rules and set fees as appropriate to implement the provisions of this section."

SECTION 7. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-12.3. Medical school faculty license.**

(a) The Board may issue a medical school faculty license to practice medicine and surgery to a physician who:

(1) Holds a full-time appointment as either a lecturer, assistant professor, associate professor, or full professor at one of the following medical schools:

a. Duke University School of Medicine;

b. The University of North Carolina at Chapel Hill School of Medicine;

c. Wake Forest University School of Medicine; or

d. East Carolina University School of Medicine; and

(2) Is not subject to disciplinary order or other action by any medical licensing agency in any state or other jurisdiction.

(b) The holder of the medical school faculty license issued under this section shall not practice medicine or surgery outside the confines of the medical school or an affiliate of the medical school. The holder of the medical school faculty license practicing medicine or surgery beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. The Board, at its discretion, may revoke the special license after due notice is given to the holder of the medical school faculty license.

(c) The Board may adopt rules and set fees related to issuing medical school faculty licenses. The Board may, by rule, set a time limit for the term of a medical school faculty license."

SECTION 8. If House Bill 818, 2007 Regular Session, becomes law, then G.S. 90-13.1 reads as rewritten:

"**§ 90-13.1. License fees.**

(a) Each applicant for a license to practice medicine and surgery in this State under either G.S. ~~90-9, 90-10, or 90-13~~90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application fee of three hundred fifty dollars ($350.00).

(b) ~~Whenever~~ Each applicant for a limited license ~~is granted as provided in~~to practice in a medical education and training program under G.S. ~~90-12, the applicant~~90-12A shall pay to the Board a fee ~~not to exceed~~of one hundred ~~fifty~~ dollars ($100.00). ~~($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of one hundred dollars ($100.00), and~~

(c) ~~where~~ An applicant for a limited volunteer license ~~to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant~~under G.S. 90-12.1A shall not pay a fee.

(d) A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license.

(e) All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board."

SECTION 9. If House Bill 818, 2007 Regular Session, becomes law, then G.S. 90-13.2 reads as rewritten:

"§ **90-13.2. Registration every year with Board.**

(a) Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday.

(b) A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay ~~a~~ an annual registration fee of one hundred seventy-five dollars ($175.00), except those who have a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training shall pay a registration fee of one hundred twenty-five dollars ($125.00) and those who have a limited volunteer license shall pay an annual registration fee of twenty-five dollars ($25.00). However, licensees who have a limited license to practice for the purpose of education and training under G.S. 90-12A shall not be required to pay more than one annual registration fee for each year of training.

(c) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.

(d) For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board.

(e) A physician who fails to register as required by this section shall pay an additional fee of fifty dollars ($50.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. The Board shall retain jurisdiction over the holder of the inactive license.

(f) Except as provided in G.S. ~~90-12(d),~~90-12.1A, a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee.

(g) Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. ~~90-13.~~90-13.1."

SECTION 10. Section 1 and Section 10 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 2:59 p.m. on the 21st day of August, 2007.

Session Law 2007-419 **House Bill 1395**

AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO CONSIDER DIFFERENCES BETWEEN ELECTRIC MEMBERSHIP CORPORATIONS AND CITIES NOT RESOLVED PURSUANT TO G.S. 160A-331.2(B), AS ENACTED BY S.L. 2005-150.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-331.2 reads as rewritten:

"§ **160A-331.2. Agreements of electric suppliers.**

(a) The General Assembly finds and determines that, in order to avoid the unnecessary duplication of electric facilities and to facilitate the settlement of disputes between cities that are primary suppliers and other electric suppliers, it is desirable for the State to authorize electric suppliers to enter into agreements pursuant to which the parties to the agreements allocate to each other the right to provide electric service to premises each would not have the right to serve under this Article but for the agreement, provided that no agreement between a city that is a primary supplier and another electric supplier shall be enforceable by or against an electric supplier that is subject to the territorial assignment jurisdiction of the North Carolina Utilities Commission until the agreement has been approved by the Commission. The Commission shall approve an agreement entered into pursuant to this section unless it finds that such agreement is not in the public interest. Such agreements may allocate the right to serve premises by reference to specific premises, geographical boundaries, or amounts of unspecified load to be served, but no agreement shall affect in any way the rights of other electric suppliers who are not parties to the relevant agreement. The provisions of this section apply to agreements relating to electric service inside and outside the corporate limits of a city.

~~(b) During the period beginning June 1, 2005, and ending May 31, 2007, electric membership corporations and cities that own and maintain their own electric distribution lines shall undertake good faith negotiations concerning the provision of future electric services within areas outside of the corporate limits of such cities as of June 1, 2005, and the development of agreements relating to the provision of electric services, the location of lines, and the areas within which electric services may be provided by such electric suppliers. To the extent such negotiations produce any agreements between the affected electric suppliers, such agreements shall be submitted to the North Carolina Utilities Commission for approval under this section. To the extent such negotiations do not produce an agreement and disputes among the suppliers remain as of May 31, 2007, such disputes shall be resolved pursuant to the provisions of G.S. 7A-38.3C(i).~~

(c) To the extent negotiations undertaken pursuant to subsection (b) of this section, as enacted by S.L. 2005-150, have not resulted in an agreement between a negotiating electric membership corporation and a negotiating city by May 31, 2007, jurisdiction shall immediately lie in the North Carolina Utilities Commission to resolve all issues related to those negotiations. Either party to the negotiations may petition the Commission to exercise the jurisdiction conferred in this subsection upon the filing of a petition and the payment of a filing fee of five hundred dollars ($500.00). In reaching its decision, the Commission shall include consideration of the public convenience and necessity. The Commission shall not consider rate differentials between the involved city and the involved electric membership corporation.

(d) Notwithstanding an order of the Commission issued pursuant to subsection (c) of this section:

(1) Any electric membership corporation or city may furnish electric service to any consumer who desires service from that electric membership corporation or city at any premises being served by another electric membership corporation or city, or at premises which another electric membership corporation or city has the right to serve pursuant to subsection (c) of this section, upon agreement of the affected electric membership corporation or city, subject to approval by the Commission.

(2) The Commission shall have the authority and jurisdiction, after notice to all affected electric membership corporations and cities and after a hearing, if a hearing is requested by any affected electric membership corporation or city, or any other interested party, to order any electric membership corporation or city which may reasonably do so to furnish electric service to any consumer who desires service from that electric membership corporation or city at any premises being served by another electric membership corporation or city pursuant to subsection (c) of this section or subdivision (1) of this subsection, or which another electric membership corporation or city has the right to serve pursuant to subsection (c) of this section or subdivision (1) of this subsection, and to order the other electric membership corporation or city to cease and desist from furnishing electric service to such premises, upon finding that service to the consumer by the electric membership corporation or city which is then furnishing service, or which has the right to furnish service to those premises, is or will be inadequate or undependable, or that the rates, conditions of service, or service regulations, applied to such consumer, are unreasonably discriminatory.

(e) Assignments or reassignments made or approved by the Commission pursuant to subsection (c) or (d) of this section shall be deemed to be service area agreements approved pursuant to subsection (a) of this section."

SECTION 2. G.S. 117-10.2 reads as rewritten:

"§ **117-10.2. Restriction on municipal service.**

Except as otherwise provided in this section, no electric membership corporation shall furnish electric service to, or within the limits of, any incorporated city or town, except pursuant to a franchise that may be granted under the provisions of G.S. 117-10.1, or as permitted under G.S. 160A-331, ~~160A-331.1,~~ 160A-331.2, 160A-332, and 160A-333. In addition, an electric membership corporation may furnish electric service to, or within the limits of, any incorporated city or town if the city or town and all electric suppliers, including public utilities, other electric membership corporations and other cities or towns, then furnishing electric service to or within such city or town consent thereto in writing."

SECTION 3. G.S. 117-10.3 and G.S. 160A-331.1 are repealed. Agreements previously entered into pursuant to G.S. 117-10.3 and G.S. 160A-331.1 shall not be affected by this repeal.

SECTION 4. G.S. 7A-38.3C is repealed. Any disputes submitted to the Public Staff of the North Carolina Utilities Commission pursuant to G.S. 7A-38.3C(i) are transferred to the North Carolina Utilities Commission to be considered by the Commission pursuant to G.S. 160A-331.2(c), as enacted by this act, and the Commission shall exercise its jurisdiction upon payment of the filing fee required by that subsection by the petitioner.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:00 p.m. on the 21st day of August, 2007.

Session Law 2007-420 **Senate Bill 1277**

AN ACT TO PROVIDE THAT ALL VEHICLES TRANSFERRED TO OR PURCHASED BY THE STATE THAT ARE DESIGNED TO OPERATE ON DIESEL FUEL SHALL BE COVERED BY AN EXPRESS MANUFACTURER'S WARRANTY THAT ALLOWS THE USE OF B-20 FUEL.

The General Assembly of North Carolina enacts:

SECTION 1. Article 15A of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-351.11. Manufacturer's warranty for State motor vehicles that operate on diesel fuel.**

Every new motor vehicle purchased by the State that is designed to operate on diesel fuel shall be covered by an express manufacturer's warranty that allows the use of B-20 fuel, as defined in G.S. 143-58.4. This section does not apply if the intended use, as determined by the agency, of the new motor vehicle requires a type of vehicle for which an express manufacturer's warranty allows the use of B-20 fuel is not available."

SECTION 2. G.S. 143-341(8)i. reads as rewritten:

"i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

…

2. To acquire passenger motor vehicles by transfer from other State agencies and by purchase. All motor vehicles transferred to or purchased by the Department shall become part of a central motor pool. Every new motor vehicle transferred to or purchased by the Department that is designed to operate on diesel fuel shall be covered by an express manufacturer's warranty that allows the use of B-20 fuel, as defined in G.S. 143-58.4. This sub-sub-subdivision does not apply if the intended use, as determined by the Department, of the new motor vehicle requires a type of vehicle for which an express manufacturer's warranty allows the use of B-20 fuel is not available.

…."

SECTION 3. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-28.15. Diesel vehicles purchase warranty requirement.**

Every new motor vehicle transferred to or purchased by the Department of Transportation that is designed to operate on diesel fuel shall be covered by an express manufacturer's warranty that allows the use of B-20 fuel, as defined in G.S. 143-58.4. This section does not apply if the intended use, as determined by the Department, of the new motor vehicle requires a type of vehicle for which an express manufacturer's warranty allows the use of B-20 fuel is not available."

SECTION 4. This act becomes effective 1 January 2008 and applies to motor vehicles transferred to or purchased by the State on or after that date.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 9:11 a.m. on the 23rd day of August, 2007.

Session Law 2007-421 **House Bill 1625**

AN ACT TO ENACT THE EYEWITNESS IDENTIFICATION REFORM ACT.

The General Assembly of North Carolina enacts:

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

"Article 14A.

"Eyewitness Identification Reform Act.

"**§ 15A-284.50. Short title.**

This Article shall be called the "Eyewitness Identification Reform Act".

"**§ 15A-284.51. Purpose.**

The purpose of this Article is to help solve crime, convict the guilty, and exonerate the innocent in criminal proceedings by improving procedures for eyewitness identification of suspects.

"**§ 15A-284.52. Eyewitness identification reform.**

(a) Definitions. – The following definitions apply in this Article:

(1) Eyewitness. – A person whose identification by sight of another person may be relevant in a criminal proceeding.

(2) Filler. – A person or a photograph of a person who is not suspected of an offense and is included in a lineup.

(3) Independent administrator. – A lineup administrator who is not participating in the investigation of the criminal offense and is unaware of which person in the lineup is the suspect.

(4) Live lineup. – A procedure in which a group of people is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime.

(5) Lineup. – A photo lineup or live lineup.

(6) Lineup administrator. – The person who conducts a lineup.

(7) Photo lineup. – A procedure in which an array of photographs is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime.

(b) Eyewitness Identification Procedures. – Lineups conducted by State, county, and other local law enforcement officers shall meet all of the following requirements:

(1) A lineup shall be conducted by an independent administrator or by an alternative method as provided by subsection (c) of this section.

(2) Individuals or photos shall be presented to witnesses sequentially, with each individual or photo presented to the witness separately, in a previously determined order, and removed after it is viewed before the next individual or photo is presented.

(3) Before a lineup, the eyewitness shall be instructed that:

a. The perpetrator might or might not be presented in the lineup,

b. The lineup administrator does not know the suspect's identity,

c. The eyewitness should not feel compelled to make an identification,

d. It is as important to exclude innocent persons as it is to identify the perpetrator, and

e. The investigation will continue whether or not an identification is made.

The eyewitness shall acknowledge the receipt of the instructions in writing. If the eyewitness refuses to sign, the lineup administrator shall note the refusal of the eyewitness to sign the acknowledgement and shall also sign the acknowledgement.

(4) In a photo lineup, the photograph of the suspect shall be contemporary and, to the extent practicable, shall resemble the suspect's appearance at the time of the offense.

(5) The lineup shall be composed so that the fillers generally resemble the eyewitness's description of the perpetrator, while ensuring that the suspect does not unduly stand out from the fillers. In addition:

a. All fillers selected shall resemble, as much as practicable, the eyewitness's description of the perpetrator in significant features, including any unique or unusual features.

b. At least five fillers shall be included in a photo lineup, in addition to the suspect.

c. At least five fillers shall be included in a live lineup, in addition to the suspect.

d. If the eyewitness has previously viewed a photo lineup or live lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup in which the current suspect participates shall be different from the fillers used in any prior lineups.

(6) If there are multiple eyewitnesses, the suspect shall be placed in a different position in the lineup or photo array for each eyewitness.

(7) In a lineup, no writings or information concerning any previous arrest, indictment, or conviction of the suspect shall be visible or made known to the eyewitness.

(8) In a live lineup, any identifying actions, such as speech, gestures, or other movements, shall be performed by all lineup participants.

(9) In a live lineup, all lineup participants must be out of view of the eyewitness prior to the lineup.

(10) Only one suspect shall be included in a lineup.

(11) Nothing shall be said to the eyewitness regarding the suspect's position in the lineup or regarding anything that might influence the eyewitness's identification.

(12) The lineup administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given lineup is the perpetrator. The lineup administrator shall separate all witnesses in order to discourage witnesses from conferring with one another before or during the procedure. Each witness shall be given instructions regarding the identification procedures without other witnesses present.

(13) If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning the person before the

lineup administrator obtains the eyewitness's confidence statement about the selection. There shall not be anyone present during the live lineup or photographic identification procedures who knows the suspect's identity, except the eyewitness and counsel as required by law.

(14) Unless it is not practical, a video record of live identification procedures shall be made. If a video record is not practical, the reasons shall be documented, and an audio record shall be made. If neither a video nor audio record are practical, the reasons shall be documented, and the lineup administrator shall make a written record of the lineup.

(15) Whether video, audio, or in writing, the record shall include all of the following information:

a. All identification and nonidentification results obtained during the identification procedure, signed by the eyewitness, including the eyewitness's confidence statement. If the eyewitness refuses to sign, the lineup administrator shall note the refusal of the eyewitness to sign the results and shall also sign the notation.

b. The names of all persons present at the lineup.

c. The date, time, and location of the lineup.

d. The words used by the eyewitness in any identification, including words that describe the eyewitness's certainty of identification.

e. Whether it was a photo lineup or live lineup and how many photos or individuals were presented in the lineup.

f. The sources of all photographs or persons used.

g. In a photo lineup, the photographs themselves.

h. In a live lineup, a photo or other visual recording of the lineup that includes all persons who participated in the lineup.

(c) Alternative Methods for Identification if Independent Administrator Is Not Used. – In lieu of using an independent administrator, a photo lineup eyewitness identification procedure may be conducted using an alternative method specified and approved by the North Carolina Criminal Justice Education and Training Standards Commission. Any alternative method shall be carefully structured to achieve neutral administration and to prevent the administrator from knowing which photograph is being presented to the eyewitness during the identification procedure. Alternative methods may include any of the following:

(1) Automated computer programs that can automatically administer the photo lineup directly to an eyewitness and prevent the administrator from seeing which photo the witness is viewing until after the procedure is completed.

(2) A procedure in which photographs are placed in folders, randomly numbered, and shuffled and then presented to an eyewitness such that the administrator cannot see or track which photograph is being presented to the witness until after the procedure is completed.

(3) Any other procedures that achieve neutral administration.

(d) Remedies. – All of the following shall be available as consequences of compliance or noncompliance with the requirements of this section:

(1) Failure to comply with any of the requirements of this section shall be considered by the court in adjudicating motions to suppress eyewitness identification.

(2) Failure to comply with any of the requirements of this section shall be admissible in support of claims of eyewitness misidentification, as long as such evidence is otherwise admissible.

(3) When evidence of compliance or noncompliance with the requirements of this section has been presented at trial, the jury shall be instructed that it may consider credible evidence of compliance or noncompliance to determine the reliability of eyewitness identifications.

"**§ 15A-284.53. Training of law enforcement officers.**

Pursuant to its authority under G.S. 17C-6 and G.S. 17E-4, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission, in consultation with the Department of Justice, shall create educational materials and conduct training programs on how to conduct lineups in compliance with this Article."

SECTION 2. This act becomes effective March 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 9:14 a.m. on the 23rd day of August, 2007.

Session Law 2007-422 **House Bill 1598**

AN ACT TO EXTEND THE SUNSET ON THE TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS AND TO EXTEND THE TIME FOR FILING AN APPLICATION TO OCTOBER 15.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-163.015 reads as rewritten:

"§ **105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2008.~~2011."

SECTION 2. G.S. 105-163.011(c) reads as rewritten:

"(c) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the ~~Secretary~~ Secretary. The application should be filed on or before April 15 of the year following the calendar year in which the investment was made. ~~The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15~~ The Secretary may not accept an application filed after October 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the

investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity."

SECTION 3. Section 2 of this act becomes effective January 1, 2008, and applies to applications filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 9:19 a.m. on the 23rd day of August, 2007.

Session Law 2007-423 **Senate Bill 1452**

AN ACT TO REQUIRE PUBLIC SCHOOL BUSES OR OTHER VEHICLES FOR STUDENT TRANSPORTATION THAT ARE CAPABLE OF OPERATING ON DIESEL FUEL TO BE CAPABLE OF OPERATING ON DIESEL FUEL WITH A MINIMUM BIODIESEL CONCENTRATION OF B-20.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-240(c) reads as rewritten:

"(c) The State Board of Education shall from time to time adopt such rules and regulations with reference to the construction, equipment, color, and maintenance of school buses, the number of pupils who may be permitted to ride at the same time upon any bus, and the age and qualifications of drivers of school buses as it shall deem to be desirable for the purpose of promoting safety in the operation of school buses. Every school bus that is capable of operating on diesel fuel shall be capable of operating on diesel fuel with a minimum biodiesel concentration of B-20, as defined in G.S. 143-58.4. No school bus shall be operated for the transportation of pupils unless such bus is constructed and maintained as prescribed in such regulations and is equipped with adequate heating facilities, a standard signaling device for giving due notice that the bus is about to make a turn, an alternating flashing stoplight on the front of the bus, an alternating flashing stoplight on the rear of the bus, and such other warning devices, fire protective equipment and first aid supplies as may be prescribed for installation upon such buses by the regulation of the State Board of Education."

SECTION 2. G.S. 115C-249(a) reads as rewritten:

"(a) To the extent that the funds shall be made available to it for such purpose, a local board of education is authorized to purchase from time to time such additional school buses and service vehicles or replacements for school buses and service vehicles, as may be deemed by such board to be necessary for the safe and efficient transportation of pupils enrolled in the schools within such local school administrative unit. Any school bus so purchased shall be constructed and equipped as prescribed by the provisions of this Article and by the regulations of the State Board of Education issued pursuant thereto. Any school bus so purchased that is capable of operating on diesel fuel shall be capable of operating on diesel fuel with a minimum biodiesel concentration of B-20, as defined in G.S. 143-58.4. At least two percent (2%) of the total volume of fuel purchased annually by local school districts statewide for use in school bus diesel engine motor vehicles shall be biodiesel fuel of a minimum blend of B-20, to the extent that biodiesel blend is available and compatible with the technology of the vehicles or equipment used. "

SECTION 3. G.S. 115C-253 reads as rewritten:

"§ **115C-253. Contracts for transportation.**

Any local board of education may, in lieu of the operation by it of public school buses, enter into a contract with any person, firm or corporation for the transportation by such person, firm or corporation of pupils enrolled in the public schools of such local school administrative unit for the same purposes for which such local school administrative unit is authorized by this Article to operate public school buses. Any vehicle used by such person, firm or corporation for the transportation of such pupils shall be constructed and equipped as provided in rules and regulations promulgated by the State Board of Education, and the driver of such vehicle shall possess all of the qualifications prescribed by rules and regulations promulgated by the State Board of ~~Education:~~ Education. ~~Provided, that where~~Where a contract for transportation of pupils is entered into between a local board of education and any person, firm or corporation which contemplates the use of an automobile or vehicle other than a bus for the transportation of 16 pupils or less, the automobile or vehicle shall not be required to be constructed and equipped as provided for in G.S. 115C-240(c), but shall be constructed and equipped pursuant to rules and regulations promulgated by the State Board of Education. In the event that any local board of education shall enter into such a contract, the board may use for such purposes any funds which it might use for the operation of school buses owned by the board, and the tax-levying authorities of the county or of the city may provide in the county or city budget such additional funds as may be necessary to carry out such contracts."

SECTION 4. This act becomes effective June 1, 2008, and applies to vehicles transferred or purchased on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 9:50 a.m. on the 23rd day of August, 2007.

Session Law 2007-424 **House Bill 1401**

AN ACT TO ENACT THE NORTH CAROLINA INTERNAL AUDIT ACT.

The General Assembly of North Carolina enacts:

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

"Article 79.

"Internal Auditing.

"**§ 143-738. Definitions; intent; applicability.**

(a) For the purposes of this section:

(1) 'State agency' means each department created pursuant to Chapter 143A or 143B of the General Statutes, the Judicial Branch, The University of North Carolina, and the Department of Public Instruction.

(2) 'Agency head' means the Governor, a Council of State member, a cabinet secretary, the Chief Justice of the Supreme Court, the President of The University of North Carolina, and the Superintendent of Public Instruction.

(b) This Article applies only to a State agency that:

(1) Has an annual operating budget that exceeds ten million dollars ($10,000,000);
(2) Has more than 100 full-time equivalent employees; or
(3) Receives and processes more than ten million dollars ($10,000,000) in cash in a fiscal year.

"**§ 143-739. Internal auditing required.**

(a) Requirements. – A State agency shall establish a program of internal auditing that:

(1) Implements an effective system of internal controls that safeguards public funds and assets and minimizes incidences of fraud, waste, and abuse.
(2) Ensures programs and business operations are administered in compliance with federal and state laws, regulations, and other requirements.
(3) Reviews the effectiveness and efficiency of agency and program operations and service delivery.
(4) Periodically audits the agency's major systems and controls, including:
a. Accounting systems and controls.
b. Administrative systems and controls.
c. Electronic data processing systems and controls.

(b) Internal Audit Standards. – Internal audits shall comply with current Standards for the Professional Practice of Internal Auditing issued by the Institute for Internal Auditors or, if appropriate, Government Auditing Standards issued by the Comptroller General of the United States.

(c) Appointment and Qualifications of Internal Auditors. – Any internal auditor employed by a State agency shall at a minimum have a bachelor's degree from an accredited college or university and:

(1) Certification or licensure as a certified public accountant, certified internal auditor, certified fraud examiner, certified information systems auditor, professional engineer, or attorney; or
(2) A minimum of five years' experience in internal or external auditing, management consulting, program evaluation, management analysis, economic analysis, industrial engineering, or operations research.

(d) Director of Internal Auditing. – The agency head shall appoint a Director of Internal Auditing who shall report to the agency head and shall not report to any employee subordinate to the agency head.

"**§ 143-740. Council of Internal Auditing.**

(a) The Council of Internal Auditing is created, consisting of the following members:

(1) The State Controller who shall serve as Chair.
(2) The State Budget Officer.
(3) The Secretary of Administration.
(4) The Attorney General.
(5) The Secretary of Revenue.
(6) The State Auditor who shall serve as a nonvoting member. The State Auditor may appoint a designee.

(b) The Council shall be supported by the Office of State Budget and Management.

(c) The Council shall:

(1) Hold its first meeting before November 1, 2007, and thereafter at the call of the Chair or upon written request to the Chair by two members of the Council.
(2) Keep minutes of all proceedings.
(3) Promulgate guidelines for the uniformity and quality of State agency internal audit activities.
(4) Recommend the number of internal audit employees required by each State agency.
(5) Develop internal audit guides, technical manuals, and suggested best internal audit practices.
(6) Administer an independent peer review system for each State agency internal audit activity; specify the frequency of such reviews consistent with applicable national standards; and assist agencies with selection of independent peer reviewers from other State agencies.
(7) Provide central training sessions, professional development opportunities, and recognition programs for internal auditors.
(8) Administer a program for sharing internal auditors among State agencies needing temporary assistance and assembly of interagency teams of internal auditors to conduct internal audits beyond the capacity of a single agency.
(9) Maintain a central database of all annual internal audit plans; topics for review proposed by internal audit plans; internal audit reports issued and individual findings and recommendations from those reports.
(10) Require reports in writing from any State agency relative to any internal audit matter.
(11) If determined necessary by a majority vote of the council:
  a. Conduct hearings relative to any attempts to interfere with, compromise, or intimidate an internal auditor.
  b. Inquire as to the effectiveness of any internal audit unit.
  c. Authorize the Chair to issue subpoenas for the appearance of any person or internal audit working papers, report drafts, and any other pertinent document or record regardless of physical form needed for the hearing.
(12) Issue an annual report including, but not limited to, service efforts and accomplishments of State agency internal auditors and to propose legislation for consideration by the Governor and General Assembly."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:15 a.m. on the 23rd day of August, 2007.

Session Law 2007-425 **House Bill 14**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON THE EDUCATION OF STUDENTS WITH DISABILITIES TO PROVIDE HOMEBOUND INSTRUCTION FOR DISCIPLINE PURPOSES WHEN IT IS THE LEAST RESTRICTIVE ALTERNATIVE FOR STUDENTS

WITH DISABILITIES AND TO REQUIRE A REGULAR EVALUATION OF THE APPROPRIATENESS OF THE HOMEBOUND INSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-107.7 reads as rewritten:

"§ **115C-107.7. ~~Discipline.~~Discipline and homebound instruction.**

(a) The policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations.

(b) If a change of placement occurs under the discipline regulations of IDEA, a local educational agency shall not assign a student to homebound instruction without a determination by the student's IEP team that the homebound instruction is the least restrictive alternative environment for that student. If it is determined that the homebound instruction is the least restrictive alternative environment for the student, the student's IEP team shall meet to determine the nature of the homebound educational services to be provided to the student. In addition, the continued appropriateness of the homebound instruction shall be evaluated monthly by the head of the student's IEP team."

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

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 10:16 a.m. on the 23rd day of August, 2007.

Session Law 2007-426 **House Bill 649**

AN ACT AUTHORIZING THE NORTH CAROLINA LANDSCAPE CONTRACTORS' REGISTRATION BOARD TO INCREASE CERTAIN FEES AND ESTABLISH A NEW FEE UNDER THE LAWS PERTAINING TO LANDSCAPE CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 89D-5 reads as rewritten:

"§ **89D-5. Application for certificate; examination; renewal.**

(a) Any person, partnership, association or corporation hereinafter desiring to register and be titled as a landscape contractor shall make written application for a certificate of title to the Board on such forms as are prescribed by the Board. Each applicant for a certificate of title as a landscape contractor shall be at least 18 years of age. Prior to July 1, 1976, each applicant for a certificate shall have been actively engaged as an untitled landscape contractor for at least one year prior to date of application. After July 1, 1976, an applicant shall furnish evidence satisfactory to the Board of three years' experience in landscape contracting or the completion of a study or combination of study and experience in landscape contracting equivalent to three years' experience under a landscape contractor.

(b) Any person who applies to the Board to be registered and titled as a landscape contractor shall be required to take an oral or written examination to determine his qualifications. Each application for registration by examination shall be accompanied by an application fee of ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00).

The Board shall compile a manual from which the examination will be prepared. The examination fee shall not exceed seventy-five dollars ($75.00). Any one failing to

pass an examination may be reexamined upon payment of the same fee as that charged to persons taking the examination for the first time, in accordance with such rules as the Board may adopt pertaining to examinations and reexaminations.

If the results of the examination are satisfactory, the Board shall issue the applicant a certificate authorizing him to be titled as a landscape contractor in the State of North Carolina upon payment of the initial certification fee as outlined in subsection (c).

(c) All certificates granted and issued by the Board under the provisions of this Chapter shall expire annually on December 31. Renewal of such certificates may be effected at any time during the month preceding the expiration date of such certificates upon proper application to the Board accompanied by the payment to the secretary-treasurer of the Board of a renewal fee, as set by the Board, of not more than ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00). The fee for an initial certificate shall be the same as for a renewal certificate and is in addition to the application fee. All certificates reinstated after expiration date thereof shall be subject to a late filing fee of ~~ten dollars ($10.00).~~twenty-five dollars ($25.00). In the event a registrant fails to obtain a reinstatement of such certificate within 12 months from the date of expiration thereof, the Board may, in its discretion, consider such registrant subject to the provisions of this Chapter relating to the issuance of an original certificate. Duplicate certificates may be issued by the Board upon payment of a fee ~~of one dollar ($1.00)~~not to exceed five dollars ($5.00) by the registrant. The Board may charge a fee not to exceed thirty-five dollars ($35.00) for issuance of a duplicate parchment certificate."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:30 a.m. on the 23rd day of August, 2007.

Session Law 2007-427 **House Bill 1231**

AN ACT TO WAIVE THE REQUIREMENT TO OBTAIN A CONCEALED HANDGUN PERMIT TO CARRY A CONCEALED HANDGUN FOR CERTAIN PERSONS AUTHORIZED BY FEDERAL LAW TO CARRY CONCEALED HANDGUNS AND FOR CERTAIN FEDERAL AND STATE RETIRED LAW ENFORCEMENT OFFICERS, AND TO EXEMPT ARMED ARMORED CAR SERVICE GUARDS AND ARMED SECURITY GUARDS WHILE PERFORMING DUTIES FROM PROHIBITIONS ON CARRYING WEAPONS ON CERTAIN EDUCATIONAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.10 is amended by adding a new subdivision to read:

"(6) Qualified retired law enforcement officer. – An individual who meets all of the following qualifications:

a. Retired in good standing from service with a public agency located in the United States as a law enforcement officer, other than for reasons of mental instability.

b. Prior to retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or

prosecution of, or the incarceration of, any person for any violation of law, and had statutory powers of arrest.

c. Prior to retirement, was regularly employed as a law enforcement officer for a total of 15 years or more, or retired after completing probationary periods of service due to a service-connected disability, as determined by the agency.

d. Has a vested right to benefits under the retirement plan of the agency."

SECTION 2. G.S. 17C-6(a) is amended by adding a new subdivision to read:

"(16) Establish standards and guidelines for the annual firearms certification of qualified retired law enforcement officers, as defined in G.S. 14-415.10(6), to efficiently implement the provisions of G.S. 14-415.25. The standards shall provide for the courses, qualifications, and the issuance of the annual firearms qualification certification. The Commission may adopt any rules necessary to effect the provisions of this section, and may charge a reasonable fee to applicants for the costs incurred in compliance with this subdivision."

SECTION 3. Article 54B of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-415.25. Exemption from permit requirement.**

Law enforcement officers and qualified retired law enforcement officers authorized by federal law to carry a concealed handgun pursuant to section 926B or 926C of Title 18 of the United States Code, who are in compliance with the requirements of those sections, are exempt from obtaining the permit described in G.S. 14-415.11."

SECTION 4. Article 54B of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-415.26. Certification of qualified retired law enforcement officers.**

(a) In lieu of obtaining a permit under this Article, a qualified retired law enforcement officer may apply to the North Carolina Criminal Justice Education and Training Standards Commission for certification. The application shall include all of the following:

(1) Verification of completion of the firearms qualification criteria established by the Commission.

(2) Photographic identification indicating retirement status issued by the agency from which the applicant retired from service.

(3) Any other application information required by the Commission.

(b) The Commission shall include with the certification a notice of the limitations applicable under federal or State law to the concealed carry of firearms in this State. The failure to receive a notification under this subsection shall not be a defense to any offense or violation of applicable State or federal laws.

(c) The Commission shall not incur any civil or criminal liability as the result of the performance of its duties under this section.

(d) It shall be unlawful for an applicant, or any person assisting an applicant, to make a willful and intentional misrepresentation on any form or application submitted to the Commission. A violation of this subsection shall be a Class 2 misdemeanor, and shall result in the immediate revocation of any certification issued by the Commission. A person convicted under this subsection shall be ineligible for certification under this section, or from obtaining a concealed carry permit under State law.

(e) This section shall not exempt any individual engaged in the private protective services profession in this State from fulfilling the registration and training requirements in Chapter 74C of the General Statutes."

SECTION 5. G.S. 14-415.12(b)(8) reads as rewritten:

"§ **14-415.12. Criteria to qualify for the issuance of a permit.**

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

…

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

SECTION 6. G.S. 14-269.2(g) reads as rewritten:

"(g) This section shall not apply ~~to:~~to any of the following:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school ~~authority;~~authority.

(1a) A person exempted by the provisions of G.S. ~~14-269(b);~~14-269(b).

(2) Firefighters, emergency service personnel, and North Carolina Forest Service personnel, and any private police employed by ~~an educational institution,~~ a school, when acting in the discharge of their official ~~duties;~~duties.

(3) Home schools as defined in G.S. ~~115C-563(a); or~~115C-563(a).

(4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property.

(5) A person registered under Chapter 74C of the General Statutes as an armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.

(6) A person registered under Chapter 74C of the General Statutes as an armed security guard while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university."

SECTION 7. Sections 2, 6, and 7 of this act are effective when it becomes law. The remainder of this act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 10:35 a.m. on the 23rd day of August, 2007.

Session Law 2007-428 **Senate Bill 1513**

AN ACT TO ALLOW COUNTIES TO PARTICIPATE IN FINANCING IMPROVEMENTS TO PUBLIC STREETS, HIGHWAYS, AND BRIDGES; AND TO ALLOW MUNICIPALITIES THAT RECEIVE AN ALLOCATION OF FUNDS FROM THE HIGHWAY FUND AND THE HIGHWAY TRUST FUND WITH MONIES FOR REPAIR, MAINTENANCE, CONSTRUCTION, RECONSTRUCTION, WIDENING, OR IMPROVING STREETS OF THE MUNICIPALITY AN OPTION TO ELECT TO CONTINUE TO RECEIVE ALLOCATIONS OR HAVE THE ALLOCATION REPROGRAMMED TO FUND ANY PROJECT ON THE DEPARTMENT OF TRANSPORTATION'S TRANSPORTATION IMPROVEMENT LIST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18(29a) reads as rewritten:

"(29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State highway system resulting from the development of the proposed sites. All public and private entities shall, upon acquiring land for a new school or prior to beginning construction of a new school, relocating a school, or expanding an existing school, request from the Department a written evaluation and written recommendations to ensure that all proposed access points comply with the criteria in the current North Carolina Department of Transportation "Policy on Street and Driveway Access". The Department shall provide the written evaluation and recommendations within a reasonable time, which shall not exceed 60 days. This subdivision shall not be construed to require the public or private entities planning schools to meet the recommendations made by the ~~Department.~~Department, except those highway improvements that are required for safe ingress and egress to the State highway system."

SECTION 2. G.S. 136-45 reads as rewritten:

"§ **136-45. General purpose of law; control, repair and maintenance of highways.**

The general purpose of the laws creating the Department of Transportation is that said Department of Transportation shall take over, establish, construct, and maintain a statewide system of hard-surfaced and other dependable highways running to all county seats, and to all principal towns, State parks, and principal State institutions, and linking up with state highways of adjoining states and with national highways into national forest reserves by the most practical routes, with special view of development of agriculture, commercial and natural resources of the State, ~~and~~ and, except as otherwise provided by law, for the further purpose of permitting the State to assume control of the State highways, repair, construct, and reconstruct and maintain said highways at the expense of the entire State, and to relieve the counties and cities and towns of the State of this burden."

SECTION 3. G.S. 136-51 reads as rewritten:

"§ **136-51. Maintenance of county public roads vested in Department of Transportation.**

From and after July 1, 1931, the exclusive control and management and responsibility for all public roads in the several counties shall be vested in the Department of Transportation as hereinafter provided, and all county, district, and township highway or road commissioners, by whatever name designated, and whether created under public, public-local, or private acts, shall be abolished:

Provided, that for the purpose of providing for the payment of any bonded or other indebtedness, and for the interest thereon, that may be outstanding as an obligation of any county, district, or township commission herein abolished, the boards of county commissioners of the respective counties are hereby constituted fiscal agents, and are vested with authority and it shall be their duty to levy such taxes on the taxable property or persons within the respective county, district, or township by or for which said bonds or other indebtedness were issued or incurred and as are now authorized by law to the extent that the same may be necessary to provide for the payment of such obligations; and the respective commissions herein abolished shall on or before July 1, 1931, turn over to said boards of county commissioners any moneys on hand or evidences of indebtedness properly applicable to the discharge of any such indebtedness (except such moneys as are mentioned in paragraph (a) above); and all uncollected special road taxes shall be payable to said boards of county commissioners, and the portion of said taxes applicable to indebtedness shall be applied by said commissioners to said indebtedness, or invested in a sinking fund according to law. All that portion of said taxes or other funds coming into the hands of said county commissioners and properly applicable to the maintenance or improvement of the public roads of the county shall be held by them as a special road fund and disbursed upon proper orders of the Department of Transportation.

Provided, further, that in order to fully carry out the provisions of this section the respective boards of county commissioners are vested with full authority to prosecute all suitable legal actions.

Nothing in this section shall prevent a county from participating in the cost of rights-of-way, construction, reconstruction, improvement, or maintenance of a road on the State highway system under agreement with the Department of Transportation. A county is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain and make improvements to portions of the State highway system lying within or outside the county limits utilizing local funds that have been authorized for that purpose. The provisions of G.S. 153A-15 apply to any county attempting to acquire property outside its limits. All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of Transportation."

SECTION 4. G.S. 136-98 reads as rewritten:

"§ **136-98. ~~Prohibition of local road taxes and bonds and construction of roads by local authorities; existing contracts.~~Counties authorized to participate in costs of road construction and maintenance.**

~~(a) From and after the first day of July, 1931, no county or road district by authority of any public, public-local, or private act shall levy any taxes for the maintenance, improvement, reconstruction, or construction of any of the public roads in the various and several counties of the State, nor shall any county, through the board of commissioners thereof or the highway commission, nor shall any district or township highway commission, issue or sell or enter into any contract to issue or sell any bonds heretofore authorized to be issued and sold, but unissued and unsold, for the purpose of obtaining money with which to improve, maintain, reconstruct, or construct roads,~~

~~except for the purpose of discharging obligations entered into prior to the ratification of this section, and all acts authorizing the board of county commissioners, the county highway commissions, district highway or township commissions, to issue and sell bonds for the purpose aforesaid, are hereby amended so as to conform to this section. No board of county commissioners nor county highway commission, nor district nor township highway commission from and after the passage of this section shall enter into any contract to build or construct roads in the various and several counties except for such projects as can be completed and paid for prior to July 1, 1931. All contracts heretofore entered into by any county through the board of county commissioners, county highway commission, and all contracts heretofore entered into by any district or township highway commission which shall be incomplete on July 1, 1931, shall be taken over by the Department of Transportation and completed by the Department of Transportation by the use of money and funds applicable thereto, by the terms of the said contracts. Nothing in this section or in any section of Chapter 145 of the Public Laws of 1931 that may appear in this Code shall be construed to prohibit the levying of taxes authorized by law for the payment of interest or principal on outstanding bonds or other evidences of debt lawfully issued. Any county or road district which has heretofore issued bonds or other evidences of debt by authority of law for road improvement purposes may refund said bonds or other evidences of debt under and pursuant to the laws of the State of North Carolina relative thereto.~~

(b) Nothing in this Article prohibits counties from establishing service districts for road maintenance under Part 1, Article 16 of Chapter 153A of the General Statutes.

(c) A county is authorized to participate in the cost of rights-of-way, construction, reconstruction, improvement, or maintenance of a road on the State highway system under agreement with the Department of Transportation."

SECTION 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-41.4. Municipal use of allocated funds; election.**

A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1 shall have the option to accept all funds allocated to the municipality, under that section, for the repair, maintenance, construction, reconstruction, widening, or improving of the municipality's streets, or the municipality may elect to have some or all of the allocation reprogrammed for any Transportation Improvement Project currently on the approved project list within the municipality's limits or within the area of any metropolitan planning organization or rural planning organization.

If a municipality chooses to have its allocation reprogrammed, the minimum amount that may be reprogrammed is an amount equal to that amount necessary to complete one full phase of the project selected by the municipality or an amount that, when added to the amount already programmed for the Transportation Improvement Project selected, would permit the completion of at least one full phase of the project."

SECTION 6. Section 5 of this act becomes effective October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:41 a.m. on the 23rd day of August, 2007.

Session Law 2007-429 **House Bill 20**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE HOUSE SELECT COMMITTEE ON THE EDUCATION OF STUDENTS WITH DISABILITIES TO ESTABLISH STANDARDS FOR HOMEBOUND INSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-106.3 is amended by adding the following new subdivisions to read:

"(3a) 'Educational services' means all of the following:

a. The necessary instructional hours per week in the form and format as determined by the child's IEP team and consistent with federal and State law. The instruction shall be delivered by an appropriately qualified teacher to the extent required by federal and State law, which requires a free appropriate public education and the opportunity for a sound basic education.

b. Related services included in the child's IEP.

c. Behavior intervention services designed to address the behavior violation that caused the disciplinary change of placement in order to prevent a recurrence.

(5a) 'Homebound instruction' means educational services provided to a student outside the school setting."

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

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 10:45 a.m. on the 23rd day of August, 2007.

Session Law 2007-430 **House Bill 1060**

AN ACT AUTHORIZING CITIES AND COUNTIES TO DONATE SURPLUS, OBSOLETE, OR UNUSED PERSONAL PROPERTY TO OTHER GOVERNMENTAL UNITS WITHIN OR OUTSIDE OF THE STATE, NONPROFIT ORGANIZATIONS, OR OFFICIALLY ADOPTED SISTER CITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-280. Donations of personal property to other governmental units.**

(a) A city may donate to a another governmental unit within the United States, a sister city, or a nonprofit organization incorporated by (i) the United States, (ii) the District of Columbia, or (iii) one of the United States, any personal property, including supplies, materials, and equipment, that the governing board deems to be surplus, obsolete, or unused. The governing board of the city or county shall post a public notice at least five days prior to the adoption of a resolution approving the donation. The resolution shall be adopted prior to making any donation of surplus, obsolete, or unused personal property. For purposes of this section a sister city is a city in a nation other than the United States that has entered into a formal, written agreement or memorandum

of understanding with the donor city for the purposes of establishing a long term partnership to promote communication, understanding, and goodwill between peoples and to develop mutually beneficial activities, programs, and ideas. The agreement or memorandum of understanding establishing the sister city relationship shall be signed by the mayors or chief elective officer of both the donor and recipient cities.

(b) For the purposes of this section, the term 'governmental unit' shall have the same meaning as defined by G.S. 160A-274(a).

(c) The authority granted to a city, county, or governmental unit under this section is in addition to any authority granted under any other provision of law."

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

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 10:55 a.m. on the 23rd day of August, 2007.

Session Law 2007-431 **House Bill 777**

AN ACT TO MAKE TECHNICAL CORRECTIONS AND OTHER CHANGES TO THE STATUTES GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(a)(1) reads as rewritten:

"(1) Any member may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than ~~90~~ 120 days subsequent to the execution of and filing thereof, he desires to be retired: Provided, that the said member at the time so specified for his retirement shall have attained the age of 60 years and have at least five years of membership service or shall have completed 30 years of creditable service."

SECTION 2. G.S. 128-27(a)(1) reads as rewritten:

"(1) Any member may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than ~~90~~ 120 days subsequent to the execution and filing thereof, he desires to be retired: Provided, that the said member at the time so specified for his retirement shall have attained the age of 60 years and have at least five years of creditable service or shall have completed 30 years of creditable service, or if a fireman, he shall have attained the age of 55 years and have at least five years of creditable service."

SECTION 3. G.S. 120-4.21(a) reads as rewritten:

"(a) Eligibility; Application. – Any member may retire with full benefits who has reached 65 years of age with five years of creditable service. Any member may retire with reduced benefits who has reached the age of 50 years with 20 years of creditable service or 60 years with five years of creditable service. The member shall make written application to the Board of Trustees to retire on a service retirement allowance on the

first day of the particular calendar month he designates. The designated date shall be no less than one day nor more than ~~90~~ 120 days from the filing of the application. During this period of notification, a member may separate from service without forfeiting his retirement benefits."

SECTION 4. G.S. 135-57(a) reads as rewritten:

"(a) Any member on or after January 1, 1974, who has attained his fiftieth birthday and five years of membership service may retire upon written application to the board of trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than ~~90~~ 120 days subsequent to the execution and filing thereof, he desires to be retired."

SECTION 5. G.S. 135-5(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 135-4, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative."

SECTION 6. G.S. 128-27(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the

retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above, and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative."

SECTION 7. G.S. 135-5(ppp) is repealed.

SECTION 8. G.S. 135-4 is amended by adding a new subsection to read:

"(hh) Credit at Full Cost for Service With The University of North Carolina During Which a Member Participated in the Optional Retirement Program. – Notwithstanding any other provisions of this Chapter, a member upon the completion of five years of membership service may purchase creditable service for periods of employment with The University of North Carolina during which the member participated in the Optional Retirement Program as provided for in G.S. 135-5.1, provided that the member is not receiving, and is not entitled to receive, any retirement benefits resulting from this employment. The member shall purchase this service by making a lump-sum amount payable to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost," "full liability," and "full actuarial cost" include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance."

SECTION 9. G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be ~~reemployed,~~ reemployed by, or otherwise engaged to perform ~~services, by~~ services for, an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12-month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar ~~year.~~ year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%)."

SECTION 10. G.S. 128-24(5)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance be ~~reemployed,~~ reemployed by, or otherwise engaged to perform ~~services, by~~ services for, an employer participating in the Retirement System on a part-time, temporary, interim, or on fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12-month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar ~~year.~~ year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%)."

SECTION 11. G.S. 135-4(r)(3) reads as rewritten:

"(r) Notwithstanding any other provision of this Chapter, any member may purchase creditable service for periods of employer approved leaves of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. This service shall be purchased by paying a cost calculated in the following manner:

…

(3) Leaves of Absence Terminating On and After January 1, 1988. – The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon or before a return to service on and after January 1, 1988, shall be due and payable to the Annuity Savings Fund within six months from return to service and shall be a lump sum amount equal to the employee percentage rate of contribution in effect at the time of purchase applied to the annual rate of compensation of the member immediately prior to the leave of absence. For members electing to make this payment, the member's employer which granted the leave of absence, or the member's employer upon a return to service, or both, shall make a matching lump sum payment to the Pension Accumulation Fund within six months from return to service equal to the employer percentage rate of contribution in effect at the time of purchase applied to the annual rate of compensation of the member immediately prior to the leave of absence. Such purchases of creditable service are applicable only when members have membership service credits within 30 days prior to the leave of absence and within 12 months following the leave of absence and such membership service is creditable service at the time of purchase. Notwithstanding any other provision of this subdivision, the cost to a member and to a member's employer or former employer or both employers whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof that the payment is made after the six-month period.

Notwithstanding the requirement of this provision that a member return to service, a member who is in receipt of Workers' Compensation during the period for which he or she would have otherwise been eligible to receive short-term benefits as provided in G.S. 135-105 and who subsequently becomes a beneficiary in receipt of a benefit as provided in G.S. 135-106 may purchase creditable service for any period of employer approved leave of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. The cost to purchase such creditable service shall be as determined above provided the amount due if not paid within six months from the beginning of the long-term disability period as determined in G.S. 135-106 shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof that the payment is made after the six-month period.

Whenever the creditable service purchased pursuant to this subsection is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual

compensation pursuant to G.S. 135-1(5) had the member not been on leave of absence without pay, then the compensation that the member would have received during the purchased period shall be included in calculating the member's average final compensation. In such cases, the compensation that the member would have received during the purchased period shall be based on the annual rate of compensation of the member immediately prior to the leave of absence."

SECTION 12. G.S. 135-5(l) reads as rewritten:

"(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

(1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or

(2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;

(3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.

subject to a minimum of twenty-five thousand dollars ($25,000) and to a maximum of fifty thousand dollars ($50,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service.

The death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

(1) After December 31, 1968 and after he has attained age 70; or

(2) After December 31, 1969 and after he has attained age 69; or

(3) After December 31, 1970 and after he has attained age 68; or

(4) After December 31, 1971 and after he has attained age 67; or

(5) After December 31, 1972 and after he has attained age 66; or

(6) After December 31, 1973 and after he has attained age 65; or

(7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for

those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

(1) For the purpose of determining eligibility only, in this subsection "calendar year" shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.

(2) Last day of actual service shall be:

a. When employment has been terminated, the last day the member actually worked.

b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).

(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).

(4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to be less than twenty-five thousand dollars ($25,000) nor to exceed fifty thousand dollars ($50,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this ~~Chapter~~ Chapter, or a member who is in receipt of Workers' Compensation during the period for which he or she would have otherwise been eligible to receive short-term benefits as provided in G.S. 135-105 and dies on or after 181 days from the last day of his or her actual service but prior to the date the benefits as provided in

G.S. 135-105 would have ended, shall be eligible for group life insurance benefits as provided in this subsection, notwithstanding that the member is no longer an employee or teacher or that the member's death occurs after the eligibility period after active service. The basis of the death benefit payable hereunder shall be the higher of the death benefit computed as above or a death benefit based on compensation used in computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability increases, all subject to the maximum dollar limitation as provided above. A member in receipt of benefits from the Disability Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued under the former Disability Salary Continuation Plan shall not be covered under the provisions of this paragraph.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a

spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars ($9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 13. G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that the following conditions apply:

(1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance,

b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the requirement of obtaining age 50, or

c. The member had not commenced to receive a retirement allowance as provided under this Chapter.

(2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who was living at the time of his death.

(3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection to apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase. The term "in service" as used in this subsection includes a member in receipt of a benefit under the Disability Income Plan as provided in Article 6 of this Chapter.

Notwithstanding the foregoing, a member who is in receipt of Workers' Compensation during the period for which the member would have otherwise been eligible to receive short-term benefits, as provided in G.S. 135-105, and who dies on or after 181 days from the last day of the member's actual service but on or before the date the benefits as provided in G.S. 135-105 would have ended, shall be considered in service at the time of the member's death for the purpose of this benefit."

SECTION 14. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:00 a.m. on the 23rd day of August, 2007.

Session Law 2007-432 **House Bill 671**

AN ACT TO CHANGE THE PROCEDURE BY WHICH A MEMBER OF THE GENERAL ASSEMBLY OR ANY OTHER STATE, COUNTY, OR MUNICIPAL OFFICIAL MAY OBTAIN A LEAVE OF ABSENCE WHEN THE MEMBER OR OFFICIAL IS CALLED TO ACTIVE DUTY IN THE ARMED FORCES OR NATIONAL GUARD; AND TO CHANGE THE PROCEDURES BY WHICH TEMPORARY OFFICIALS ARE APPOINTED TO REPLACE MEMBERS OF THE GENERAL ASSEMBLY CALLED TO ACTIVE DUTY IN THE ARMED FORCES OR NATIONAL GUARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-39 reads as rewritten:

"§ **128-39. Leaves of absence for State ~~officials.~~officials for protracted illness or other reason.**

Any elective or appointive State official may obtain leave of absence from ~~his duties for military or naval service, protracted illness,~~the official's duties for protracted illness or other reason satisfactory to the Governor, for such period as the Governor may designate. ~~Such~~ The leave shall be obtained only upon application by the official and with the consent of the Governor. The official shall receive no salary during the period of leave unless the leave of absence is granted by reason of protracted illness, in which event the granting of a leave of absence shall not ~~operate to deprive any such~~deprive the official of the benefits of cumulative sick leave to which ~~he~~ the official may be entitled under rules and regulations adopted pursuant to G.S. 143-37 or to which he may otherwise be entitled by law. The period of leave may be extended upon application to and with the approval of the Governor if the reason for the original leave still exists, and it may be shortened if the ~~said~~ reason shall unexpectedly terminate: Provided, that no leave or extension thereof shall operate to extend the term of office of any official beyond the period for which ~~he~~the official was elected or appointed. If, by reason of the length of the period of absence or the nature of the duties of the official, the Governor deems it necessary, the Governor may appoint any citizen of the State, without regard to residence or district, as ~~acting official or substitute~~a temporary replacement for the period of the official's leave of ~~absence, such appointee to~~absence. This appointee shall have all the authority, duties, perquisites, and emoluments of ~~his principal.~~the official temporarily replaced. The appointee shall possess all the qualifications required by law for holding the office for which the temporary replacement official is appointed."

SECTION 2. Chapter 128 of the General Statutes is amended by adding a new section to read:

"**§ 128-39A. Leaves of absence for State officials for military or naval service.**

(a) Any elective or appointive State official may obtain leave of absence from the official's duties when the official enters active duty in the armed forces of the United States or the North Carolina National Guard as a result of being voluntarily or involuntarily activated, drafted, or otherwise called to duty. The official shall receive no

salary during the period of leave. No vacancy is created by a State official obtaining a leave of absence under this section.

(b) If the official will be on active duty for a period of at least 30 days, a leave of absence may be obtained, and a temporary replacement for the official may be appointed in the following manner:

(1) If the official is not a member of the General Assembly:

a. Leave of absence shall be obtained by filing a copy of the official's active duty orders with the Office of the Governor.

b. G.S. 128-39 shall provide the procedure for selecting a temporary replacement official.

(2) If the official is a member of the General Assembly:

a. Leave of absence shall be obtained by filing a copy of the official's active duty orders with the clerk of the house of the General Assembly of which the official is a member.

b. The Governor shall select a person to serve as the temporary replacement representative or senator. If the appropriate party executive committee recommends an eligible person within 14 days of the occurrence of the vacancy, the appointment shall be made under the same procedure as provided by G.S. 163-11. If a recommendation is not made on a timely basis, the Governor may appoint any person who is both:

1. A resident of the legislative district represented by the legislator being temporarily replaced.

2. A member of the same political party as the legislator being temporarily replaced.

In any case, the person appointed must be eligible to serve under Section 6 of Article II of the North Carolina Constitution if a senator or Section 7 of Article II of the North Carolina Constitution if a representative.

(c) If the official will be on active duty for a period of less than 30 days, a temporary replacement official shall not be appointed, even if a leave of absence is obtained.

(d) The Governor shall appoint the temporary replacement to begin service on the date specified in writing by the official being temporarily replaced as the date the official will enter active military service, or as soon as practicable thereafter. A temporary replacement official shall have all the authority, duties, perquisites, and emoluments of the official temporarily replaced.

(e) The term of the temporary replacement official appointed under this section shall terminate as soon as any of the following occurs:

(1) On the third day after the last day of active duty status of the official who is temporarily replaced.

(2) The clerk of the appropriate house of the General Assembly receives written notice from the official who is temporarily replaced that the official is ready and able to resume the duties of his or her office.

(3) The term of office of the official who is temporarily replaced expires."

SECTION 3. G.S. 128-40 reads as rewritten:

"§ **128-40. Leaves of absence for county ~~officials.~~officials for protracted illness or other reason.**

Any elective or appointive county official may obtain leave of absence from ~~his duties for military or naval service, protracted illness,~~the official's duties for protracted illness or other reason satisfactory to the board of county commissioners of his county, for such period as the board of county commissioners may designate. ~~Such~~ The leave shall be obtained only upon application by the official and with the consent of the board of county commissioners. The official shall receive no salary during the period of leave unless the leave of absence is granted by reason of protracted illness, in which event the granting of a leave of absence shall not ~~operate to deprive any such~~ deprive the official of the benefits of any sick leave to which ~~he~~ the official may be entitled by law. The period of leave may be extended upon application to and with the approval of the board of county commissioners if the reason for the original leave still exists, and it may be shortened if the ~~said~~ reason shall unexpectedly terminate: Provided, that no leave or extension thereof shall operate to extend the term of office of any official beyond the period for which ~~he~~ the official was elected or appointed. If, by reason of the length of the period of absence or the nature of the duties of the official, the board of county commissioners deems it necessary, the board may appoint any qualified citizen of the county as ~~acting official or substitute~~a temporary replacement for the period of the official's leave of ~~absence, such appointee to~~absence. This appointee shall have all the authority, duties, perquisites, and emoluments of ~~his principal.~~the official temporarily replaced. The appointee shall possess all the qualifications required by law for holding the office for which the temporary replacement official is appointed."

SECTION 4. G.S. 128-41 reads as rewritten:

"§ **128-41. Leaves of absence for municipal ~~officers.~~officials for protracted illness or other reason.**

Any elective or appointive municipal official may obtain leave of absence from ~~his duties for military or naval service, protracted illness,~~the official's duties for protracted illness or other reason satisfactory to the governing body of the municipality, for such period as the governing body may designate. ~~Such~~ The leave shall be obtained only upon application by the official and with the consent of the governing body. The official shall receive no salary during the period of leave unless the leave of absence is granted by reason of protracted illness, in which event the granting of a leave of absence shall not ~~operate to deprive any such~~deprive the official of the benefits of any sick leave to which ~~he~~ the official may be entitled by law. The period of leave may be extended upon application to and with the approval of the governing body of the municipality if the reason for the original leave still exists, and it may be shortened if the ~~said~~ reason shall unexpectedly terminate: Provided, that no leave or extension thereof shall operate to extend the term of office of any official beyond the period for which ~~he~~ the official was elected or appointed. If, by reason of the length of the period of absence or the nature of the duties of the official, the governing body deems it necessary, it may appoint any qualified citizen of the municipality as ~~acting official or substitute~~a temporary replacement for the period of the official's leave of ~~absence, such appointee to~~absence. This appointee shall have all the authority, duties, perquisites, and emoluments of ~~his principal~~the official temporarily replaced. The appointee shall possess all the qualifications required by law for holding the office for which the temporary replacement official is appointed."

SECTION 5. Chapter 128 of the General Statutes is amended by adding a new section to read:

"**§ 128-42. Leaves of absence for county or municipal officials for military or naval service.**

(a) Any elective or appointive county or municipal official may obtain leave of absence from the official's duties when the official enters active duty in the armed forces of the United States or the North Carolina National Guard as a result of being voluntarily or involuntarily activated, drafted, or otherwise called to duty. The official shall receive no salary during the period of leave. No vacancy is created by a county or municipal official obtaining a leave of absence under this section.

(b) If the official will be on active duty for a period of at least 30 days, a leave of absence may be obtained, and a temporary replacement for the official may be appointed in the following manner:

(1) Leave of absence shall be obtained by placing a copy of the official's active duty orders with the clerk.

(2) G.S. 128-41 shall govern the procedure for selecting a temporary replacement official if the official being temporarily replaced is a municipal official; otherwise, G.S. 128-40 shall govern.

(c) If the official will be on active duty for a period of less than 30 days, a temporary replacement official shall not be appointed, even if a leave of absence is obtained.

(d) The appropriate authority under G.S. 128-40 or G.S. 128-41 shall appoint the temporary replacement to begin service on the date specified in writing by the official being temporarily replaced as the date the official will enter active military service, or as soon as practicable thereafter. A temporary replacement official shall have all the authority, duties, perquisites, and emoluments of the official temporarily replaced. The appointee shall possess all the qualifications required by law for holding the office for which the temporary replacement official is appointed.

(e) The term of the temporary replacement official appointed under this section shall terminate as soon as any of the following occurs:

(1) On the third day after the last day of active duty status of the official who is temporarily replaced.

(2) The clerk receives written notice from the official who is temporarily replaced that the official is ready and able to resume the duties of his or her office.

(3) The term of office of the official who is temporarily replaced expires.

(f) As used in this section, the term 'clerk' means the city clerk as defined in G.S. 160A-171 if the official being temporarily replaced is a municipal official and means the clerk to the board of county commissioners as defined in G.S. 153A-1(2) if the official being temporarily replaced is a county official."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:01 a.m. on the 23rd day of August, 2007.

Session Law 2007-433 **House Bill 767**

AN ACT TO ALLOW ALL LAW ENFORCEMENT OFFICERS AND ALL FIRE, RESCUE, AND EMERGENCY MEDICAL SERVICES PERSONNEL THROUGHOUT THE STATE TO USE ALL-TERRAIN VEHICLES ON SOME PUBLIC HIGHWAYS WHILE ACTING IN THE COURSE AND SCOPE OF THEIR DUTIES; TO ALLOW CERTAIN MUNICIPAL AND COUNTY

EMPLOYEES CURRENTLY AUTHORIZED TO USE ALL-TERRAIN VEHICLES ON SOME PUBLIC HIGHWAYS WHILE ACTING IN THE COURSE AND SCOPE OF THEIR DUTIES TO CONTINUE; TO REPEAL LOCAL ACTS ON THE SUBJECT; AND TO MANDATE THAT ATV SAFETY COURSES BE APPROVED BY THE COMMISSIONER OF INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-171.23. Motorized all-terrain vehicles of law enforcement officers and fire, rescue, and emergency medical services permitted on certain highways.**

(a) Law enforcement officers acting in the course and scope of their duties may operate motorized all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by the agency, or under the direct control of the incident commander, on: (i) public highways where the speed limit is 35 miles per hour or less; and (ii) nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less.

(b) Fire, rescue, and emergency medical services personnel acting in the course and scope of their duties may operate motorized all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by fire, rescue, or emergency medical services departments, or under the direct control of the incident commander, on: (i) public highways where the speed limit is 35 miles per hour or less; and (ii) nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less.

(c) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(d) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(e) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(f) A person operating an all-terrain vehicle pursuant to this section shall carry an official identification card or badge."

SECTION 2. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-171.24. Motorized all-terrain vehicle use by employees of listed municipalities and counties permitted on certain highways.**

(a) Municipal and county employees may operate motorized all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by the agency, on: (i) public highways where the speed limit is 35 miles per hour or less; and (ii) nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less.

(b) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(c) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(d) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(e) A person operating an all-terrain vehicle pursuant to this section shall carry an official identification card or badge.

(f) This section applies to the Towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf City, Sylva, Topsail Beach, and Wrightsville Beach, the Cities of Albemarle, Belmont, Cherryville, Gastonia, Kings Mountain, Mount Holly, and Rockingham and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only."

SECTION 3.(a) S.L. 2004-108, Section 1 of S.L. 2005-305, S.L. 2006-25, Sections 1 and 2 of S.L. 2006-116, Section 1 of S.L. 2006-166, Section 36 of S.L. 2006-264, and S.L. 2007-4 are repealed.

SECTION 3.(b) G.S. 20-114.3 is repealed.

SECTION 4. G.S. 20-171.20 reads as rewritten:

"§ **20-171.20. Safety training and certificate.**

Effective October 1, 2006, every all-terrain vehicle operator born on or after January 1, 1990, shall possess a safety certificate indicating successful completion of an all-terrain vehicle safety course sponsored or approved by the All-Terrain Vehicle Safety ~~Institute.~~ Institute or by another all-terrain vehicle safety course approved by the Commissioner of Insurance. The North Carolina Community College System is authorized to provide all-terrain vehicle safety training, approved by the Commissioner, to persons less than 18 years of age."

SECTION 5. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 11:04 a.m. on the 23rd day of August, 2007.

Session Law 2007-434 **House Bill 1626**

AN ACT TO PROVIDE THAT A CUSTODIAL INTERROGATION IN A HOMICIDE CASE MUST BE ELECTRONICALLY RECORDED IN ITS ENTIRETY.

The General Assembly of North Carolina enacts:

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

"Article 8.

"Electronic Recording of Interrogations.

"**§ 15A-211. Electronic recording of interrogations.**

(a) Purpose. – The purpose of this Article is to require the creation of an electronic record of an entire custodial interrogation in order to eliminate disputes about interrogations, thereby improving prosecution of the guilty while affording protection to the innocent and increasing court efficiency.

(b) Application. – The provisions of this Article shall only apply to custodial interrogations in homicide investigations conducted at any place of detention.

(c) Definitions. – The following definitions apply in this Article:

(1) Electronic recording. – An audio recording that is an authentic, accurate, unaltered record; or a visual recording that is an authentic, accurate, unaltered record.

(2) Place of detention. – A jail, police or sheriff's station, correctional or detention facility, holding facility for prisoners, or other facility where persons are held in custody in connection with criminal charges.

(3) In its entirety. – An uninterrupted record that begins with and includes a law enforcement officer's advice to the person in custody of that person's constitutional rights, ends when the interview has completely finished, and clearly shows both the interrogator and the person in custody throughout. If the record is a visual recording, the camera recording the custodial interrogation must be placed so that the camera films both the interrogator and the suspect. Brief periods of recess, upon request by the person in custody or the law enforcement officer, do not constitute an "interruption" of the record. The record will reflect the starting time of the recess and the resumption of the interrogation.

(d) Electronic Recording of Interrogations Required. – Any law enforcement officer conducting a custodial interrogation in a homicide investigation shall make an electronic recording of the interrogation in its entirety.

(e) Admissibility of Electronic Recordings. – During the prosecution of any homicide, an oral, written, nonverbal, or sign language statement of a defendant made in the course of a custodial interrogation may be presented as evidence against the defendant if an electronic recording was made of the custodial interrogation in its entirety and the statement is otherwise admissible. If the court finds that the defendant was subjected to a custodial interrogation that was not electronically recorded in its entirety, any statements made by the defendant after that non-electronically recorded custodial interrogation, even if made during an interrogation that is otherwise in compliance with this section, may be questioned with regard to the voluntariness and reliability of the statement. The State may establish through clear and convincing evidence that the statement was both voluntary and reliable and that law enforcement officers had good cause for failing to electronically record the interrogation in its entirety. Good cause shall include, but not be limited to, the following:

(1) The accused refused to have the interrogation electronically recorded, and the refusal itself was electronically recorded.

(2) The failure to electronically record an interrogation in its entirety was the result of unforeseeable equipment failure, and obtaining replacement equipment was not feasible.

(f) Remedies for Compliance or Noncompliance. – All of the following remedies shall be granted as relief for compliance or noncompliance with the requirements of this section:

(1) Failure to comply with any of the requirements of this section shall be considered by the court in adjudicating motions to suppress a statement of the defendant made during or after a custodial interrogation.

(2) Failure to comply with any of the requirements of this section shall be admissible in support of claims that the defendant's statement was involuntary or is unreliable, provided the evidence is otherwise admissible.

(3) When evidence of compliance or noncompliance with the requirements of this section has been presented at trial, the jury shall be instructed that it may consider credible evidence of compliance or noncompliance to determine whether the defendant's statement was voluntary and reliable.

(g) Article Does Not Preclude Admission of Certain Statements. – Nothing in this Article precludes the admission of any of the following:

(1) A statement made by the accused in open court during trial, before a grand jury, or at a preliminary hearing.

(2) A spontaneous statement that is not made in response to a question.

(3) A statement made during arrest processing in response to a routine question.

(4) A statement made during a custodial interrogation that is conducted in another state by law enforcement officers of that state.

(5) A statement obtained by a federal law enforcement officer.

(6) A statement given at a time when the interrogators are unaware that the person is suspected of a homicide.

(7) A statement used only for impeachment purposes and not as substantive evidence.

(h) Destruction or Modification of Recording After Appeals Exhausted. – The State shall not destroy or alter any electronic recording of a custodial interrogation of a defendant convicted of any offense related to the interrogation until one year after the completion of all State and federal appeals of the conviction, including the exhaustion of any appeal of any motion for appropriate relief or habeas corpus proceedings. Every electronic recording should be clearly identified and catalogued by law enforcement personnel."

SECTION 2. This act becomes effective March 1, 2008, and applies to interrogations occurring on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 11:07 a.m. on the 23rd day of August, 2007.

Session Law 2007-435 **House Bill 1460**

AN ACT TO ALLOW THE ATTORNEY GENERAL TO REQUIRE CERTAIN CIGARETTE MANUFACTURERS TO MAKE QUARTERLY ESCROW DEPOSITS, TO TREAT CERTAIN AFFILIATES OF A MANUFACTURER OF OTHER TOBACCO PRODUCTS AS IF THEY WERE THE MANUFACTURER FOR PURPOSES OF ADMINISTRATION OF THE EXCISE TAX ON OTHER TOBACCO PRODUCTS, AND TO PROVIDE THAT THE PERMISSION GRANTED TO A CIGARETTE MANUFACTURER TO BE RELIEVED OF PAYING THE CIGARETTE EXCISE TAX APPLIES TO ALL TOBACCO PRODUCTS DISTRIBUTED BY THE MANUFACTURER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-294.1 is amended by adding a new subsection to read:

"§ **66-294.1. Duties of Attorney General.**

…

(c) Quarterly Escrow Installments. – To promote compliance with this Article, the Attorney General shall require a nonparticipating manufacturer to make the escrow deposits required by G.S. 66-291(a)(2) in quarterly installments during the year in which the sales covered by the deposits are made if one or more of the conditions in this subsection apply. A quarterly installment must be made by the last day of the month following the end of the quarter. The Attorney General must notify a nonparticipating manufacturer required to make quarterly escrow deposits under this subsection of its duty to do so by first-class mail sent to the manufacturer's last known address. The Attorney General may require production of information sufficient to enable the Attorney General to determine the adequacy of the amount of any installment escrow payment.

(1) The nonparticipating manufacturer has not previously established and funded a qualified escrow fund in North Carolina.

(2) The nonparticipating manufacturer has not made any escrow deposits for more than one year.

(3) The nonparticipating manufacturer has failed to make a timely and complete escrow deposit in any prior calendar year.

(4) The nonparticipating manufacturer has failed to pay any judgment, including any civil penalty.

(5) The Attorney General has reasonable cause to believe that the nonparticipating manufacturer may not make its full required escrow deposit by April 15 of the year following the year in which the cigarette sales are made."

SECTION 2. G.S. 105-113.4 reads as rewritten:

"§ **105-113.4. Definitions.**

The following definitions apply in this Article:

…

(4a) Integrated wholesale dealer. – A wholesale dealer who is an affiliate of a manufacturer of tobacco products, other than cigarettes, is the only person to whom the manufacturer sells its products, and is not a retail dealer. An 'affiliate' is a person who directly or indirectly controls, is controlled by, or is under common control with another person.

…."

SECTION 3. G.S. 105-113.35(d) reads as rewritten:

"(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

Permission granted under this subsection to a manufacturer to be relieved of paying the tax imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax.

If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved of paying the cigarette excise tax, the permission applies to the tax imposed by this section on tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale dealer after receiving permission to be relieved of the cigarette excise tax must notify the Secretary of the permission received under G.S. 105-113.10 when applying for a license as a wholesale dealer."

SECTION 4. Section 1 of this act becomes effective January 1, 2008. The remainder of this act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:10 a.m. on the 23rd day of August, 2007.

Session Law 2007-436 **House Bill 892**

AN ACT TO UPDATE THE LICENSURE ACT FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-293 reads as rewritten:

"§ **90-293. Definitions.**

As used in this Article, unless the context otherwise requires:

(1) "Audiologist" means any person who engages in the practice of audiology. A person is deemed to be an audiologist if he offers services to the public under any title incorporating the terms of "audiology," "audiologist," "audiological," "hearing clinic," "hearing clinician," "hearing therapist," or any similar title or description of service.

(2) "Board" means the Board of Examiners for Speech and Language Pathologists and Audiologists.

(3) "License" means a license issued by the Board under the provisions of this Article, including a temporary license.

(4) "Person" means an individual, organization, or corporate body, except that only individuals can be licensed under this Article.

(5) "Speech and language pathologist" means any person who represents himself or herself to the public by title or by description of services, methods, or procedures as one who evaluates, examines, instructs, ~~or counsels~~counsels, or treats persons suffering from conditions or disorders affecting speech and ~~language.~~language or swallowing. A person is deemed to be a speech and language pathologist if ~~he~~ the person offers such services under any title incorporating the words "speech pathology," "speech pathologist," "speech correction," "speech correctionist," "speech therapy," "speech therapist," "speech clinic," "speech clinician," "language pathologist," "language therapist," "logopedist," "communication disorders," "communicologist," "voice therapist," "voice pathologist," or any similar title or description of service.

(6) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, or rehabilitation related to ~~hearing and disorders of~~ hearing and vestibular disorders for the purpose of identifying, preventing, ameliorating, or modifying such disorders and conditions in individuals ~~and/or~~or groups of individuals. For the purpose of this subdivision, the words "habilitation" and "rehabilitation" shall include auditory training, speech reading, aural rehabilitation, hearing aid use evaluation and recommendations, and fabrication of earmolds and similar accessories for clinical testing ~~purposes only.~~purposes.

(7) "The practice of speech and language pathology" means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, ~~counseling,~~counseling, treating, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, ~~or language~~language, and swallowing for the purpose of identifying, preventing, ameliorating, or modifying such disorders.

(8) Repealed by Session Laws 1987, c. 665, s. 1.

(9) "Accredited college or university" means an institution of higher learning accredited by the Southern Association of Colleges and Universities, or accredited by a similarly recognized association of another locale."

SECTION 2. G.S. 90-294(c) reads as rewritten:

"(c) The provisions of this Article do not apply to:

(1) The activities, services and use of an official title by a person employed by an agency of the federal government and solely in connection with such employment.

(2) The activities and services of a student or trainee in speech and language pathology or audiology pursuing a course of study in an accredited college or university, or working in a training center program approved by the Board, if these activities and services constitute a part of such person's course of study.

(3) Repealed by Session Laws 1987, c. 665, s. 2.

(4) A person who holds a valid and current credential as a speech and language pathologist or audiologist issued by the North Carolina Department of Public Instruction or who is employed by the North Carolina Schools for the Deaf and Blind, if such person practices speech and language pathology or audiology in a salaried position solely within the confines or under the jurisdiction of the Department of Public Instruction or the Department of Health and Human Services respectively.

~~(5) A physician licensed to practice medicine.~~

~~(6) Persons performing audiometric screenings and whose work is under the supervision of a licensed physician, or licensed audiologist.~~

~~(7) Persons who are now or may become engaged in counseling or instructing laryngectomees in the methods, techniques, or problems of learning to speak again.~~"

SECTION 3.(a) G.S. 90-294(d) reads as rewritten:

"(d) Nothing in this Article shall apply to a physician licensed to practice medicine, or to any person employed by ~~such~~ a physician licensed to practice medicine in the course of ~~his~~ the physician's practice of medicine."

SECTION 3.(b) G.S. 90-294 is amended by adding a new subsection to read:

"(i) Nothing in this Article shall apply to a licensed physical therapy or occupational therapy practitioner providing evaluation and treatment of swallowing disorders, cognitive/communication deficits, and balance functions within the context of his or her licensed practice."

SECTION 4. G.S. 90-295 reads as rewritten:

"§ **90-295. Qualifications of applicants for permanent licensure.**

(a) To be eligible for permanent licensure by the Board as a speech and language ~~pathologist or audiologist,~~pathologist, the applicant must:

(1) Possess at least a master's degree in speech and language pathology ~~or audiology~~ or qualifications deemed equivalent by the Board under ~~regulations~~ rules duly adopted by the Board under this Article. ~~Such~~ The degree or equivalent qualifications shall be from an accredited institution.

(2) Submit transcripts from one or more accredited colleges or universities presenting evidence of the completion of ~~60~~ 75 semester hours constituting a well-integrated program of course study dealing with the normal aspects of human communication, development thereof, disorders thereof, and clinical techniques for evaluation and management of such disorders.

a. ~~Twelve~~ Fifteen of these ~~60~~ 75 semester hours must be obtained in courses that provide information that pertains to normal development and use of speech, language and hearing.

b. ~~Thirty~~ Thirty-six of these ~~60~~ 75 semester hours must be in courses that provide information relative to communication disorders and information about and training in evaluation and management of speech, language, and hearing disorders. At least 24 of these 30 semester hours must be in courses in ~~the professional area (speech and language pathology or audiology) for which the license is requested, and no less than six semester hours may be in audiology for the license in speech and language pathology or in speech and language pathology for the license in audiology. Moreover, no more than six semester hours may be in courses that provide credit for clinical practice obtained during academic training.~~speech and language pathology.

c. Credit for study of information pertaining to related fields that augment the work of the clinical practitioner of speech and language pathology ~~and/or~~or audiology may also apply toward the total ~~60~~ 75 semester hours.

d. ~~Thirty~~ Thirty-six of the total ~~60~~ 75 semester hours that are required for a license must be in courses that are acceptable toward a graduate degree by the college or university ~~in~~ at which they are taken. Moreover, 21 of those ~~30 semester hours must be within the 24 semester hours required in the~~

~~professional area (speech and language pathology or audiology) for which the license is requested or within the six semester hours required in the other area.~~semester hours must be in graduate level courses in speech and language pathology.

(3) Submit evidence of the completion of a minimum of ~~300~~ 400 clock hours of supervised, direct clinical experience with individuals who present a variety of communication disorders. This experience must have been obtained within the training institution or in one of its cooperating ~~programs.~~programs in the following areas: (i) Speech – Adult (200 diagnostic and 200 therapeutic); Children (200 diagnostic and 200 therapeutic); or (ii) Language – Adult (200 diagnostic and 200 therapeutic); Children (200 diagnostic and 200 therapeutic). Each new applicant must submit a verified clinical clock hour summary sheet signed by the clinic or program director, in addition to completion of the license application.

(4) Present written evidence ~~from a licensed and/or American Speech and Hearing Association certified speech and language pathologist or audiologist supervisor of nine months of full-time professional experience in which bona fide clinical work has been accomplished in the major professional area (speech and language pathology or audiology) in which the license is being sought.~~ of nine months of full-time professional experience in which bona fide clinical work has been accomplished in speech and language pathology. The professional work must have been supervised by a speech and language pathologist who is State-licensed or certified by the American Speech-Language-Hearing Association. This experience must follow the completion of the requirements listed in subdivisions (1), (2) and (3). Full time is defined as at least nine months in a calendar year and a minimum of 30 hours per week. Half time is defined as at least 18 months in two calendar years and a minimum of 20 hours per week. The supervision must be performed by a person who holds a valid license under this Article, or certificate of clinical competence from the American Speech-Language-Hearing Association, in ~~the specific area for which licensure is sought.~~speech and language pathology.

(5) Pass an examination established or approved by the Board.

(b) To be eligible for permanent licensure by the Board as an audiologist, the applicant must:

(1) Possess a doctoral degree in audiology or qualifications deemed equivalent by the Board under rules duly adopted by the Board under this Article. The degree or equivalent qualifications shall be from an accredited institution.

(2) Persons who were engaged in the practice of audiology and do not possess a doctoral degree in audiology before October 1, 2007, shall be exempt from the degree requirement in subdivision (1) of this subsection provided those persons remain continuously licensed in the field.

(3) Submit transcripts from one or more accredited colleges or universities presenting evidence of the completion of 90 semester hours

constituting a well-integrated program of course study dealing with the normal aspects of human communication, the development of human communication, the disorders associated with human communication, and the clinical techniques for evaluation and management of such disorders.

(4) Present written evidence documenting 1,800 clock hours of professional experience directly supervised by an audiologist who is State-licensed or certified by the American Speech-Language-Hearing Association or other Board-approved agency. The clock hours of professional experience must be with individuals who present a variety of communication and auditory disorders and must have been obtained within the training program at an accredited college or university or in one of its cooperating programs.

(5) Pass an examination established or approved by the Board."

SECTION 5. G.S. 90-303(a) reads as rewritten:

"(a) There shall be a Board of Examiners for Speech and Language Pathologists and Audiologists, which shall be composed of seven members, who shall all be residents of this State. Two members shall have a paid work experience in audiology for at least five years and hold a ~~certificate of clinical competence in audiology of the American Speech and Hearing Association.~~North Carolina license as an audiologist. Two members shall have paid work experience in speech pathology for at least five years and hold a ~~certificate of clinical competence in speech pathology of the American Speech and Hearing Association.~~North Carolina license as a speech and language pathologist. One member shall be a physician who is licensed to practice medicine in the State of North Carolina. Two members shall be appointed by the Governor to represent the interest of the public at large. These two members shall be neither licensed speech and language pathologists nor audiologists. These members shall be appointed not later than July 1, 1981; one shall be initially appointed for a term of two years; the other shall be appointed for a term of three years. Thereafter all public members shall serve three-year terms."

SECTION 6. G.S. 90-304(a)(3) reads as rewritten:

"(a) The powers and duties of the Board are as follows:

…

(3) To adopt responsible rules ~~and regulations~~including ~~but not limited to regulations which~~rules that establish ethical standards of practice and require continuing professional education and to amend or repeal the same."

SECTION 7. Section 4 of this act becomes effective October 1, 2007. The remaining sections are effective when this act becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 11:11 a.m. on the 23rd day of August, 2007.

Session Law 2007-437 **Senate Bill 1431**

AN ACT TO AUTHORIZE THE ADDITION OF DEEP RIVER STATE TRAIL TO THE STATE PARKS SYSTEM AND TO INCREASE THE MEMBERSHIP OF THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Assembly authorizes the Department of Environment and Natural Resources to add Deep River State Trail to the State Parks System as provided in G.S. 113-44.14(b). The Department may acquire and manage lands and easements for this purpose, and shall promote, encourage, and facilitate the establishment of connecting trail segments by other federal, State, local, and private landowners. On segments of the Deep River State Trail that cross property controlled by agencies or owners other than the Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

SECTION 1.(b) Section 12.9 of S.L. 2007-323 is repealed.

SECTION 2. G.S. 143B-313.2 reads as rewritten:

"§ **143B-313.2. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.**

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of ~~11~~ 15 members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

(1) One member appointed by the Governor.
(2) One member appointed by the Governor.
(3) One member appointed by the Governor.
(3a) One member appointed by the Governor.
(3b) One member appointed by the Governor.
(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(6) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(7a) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(b) Terms. – Members shall serve staggered terms of office of three years. Members shall serve no more than two consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration date of that member's most recent term. Upon the expiration of a three-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The terms of members appointed under subdivision (1), (3a), (5), (7), or (9) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three. The terms of members appointed under subdivision (2), (3b), (4), (8), or (11) of subsection (a) of this section shall expire on July 1 of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivision (3), (6), ~~or (10)~~(7a), (10), or (12) of subsection (a) of this section shall expire on July 1 of years that precede by one year those years that are evenly divisible by three.

…"

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:12 a.m. on the 23rd day of August, 2007.

Session Law 2007-438 **House Bill 859**

AN ACT TO ESTABLISH TRANSITIONAL NUTRIENT OFFSET PAYMENTS AND TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP AND IMPLEMENT A PLAN TO TRANSITION THE NORTH CAROLINA ECOSYSTEM ENHANCEMENT PROGRAM NUTRIENT OFFSET PROGRAM FROM A FEE-BASED PROGRAM TO A PROGRAM BASED ON THE ACTUAL COSTS OF PROVIDING NUTRIENT CREDITS.

Whereas, the General Assembly established the Riparian Buffer Protection Program (G.S. 143-214.20) to provide alternatives for persons who would otherwise be required to maintain riparian buffers; and

Whereas, the General Assembly directed the Environmental Management Commission to establish a compensatory mitigation fee to be paid into the Riparian Buffer Restoration Fund; and

Whereas, the Environmental Management Commission adopted a revised schedule of compensatory mitigation fees for nutrient loading offsets on 12 January 2006 in accordance with the Administrative Procedure Act; and

Whereas, the General Assembly enacted S.L. 2006-215, as amended by S.L. 2006-218 and S.L. 2006-255, which established a temporary per pound factor and method of calculation for nutrient offset fees in lieu of the fee schedule adopted by the Environmental Management Commission and directed the Environmental Review Commission to study issues related to the nutrient offset payment program; and

Whereas, the Environmental Review Commission entered into a contract with Research Triangle Institute, International (RTI), to provide consultant services for a study of the costs associated with providing nutrient controls that are adequate to offset point source and nonpoint source discharges of nitrogen and other nutrients; and

Whereas, the Environmental Review Commission received the final report from RTI on 11 June 2007; and

Whereas, the final report from RTI recommended a nutrient offset payment factor for nitrogen in the Neuse River Basin of $25.77 per pound of nitrogen; and

Whereas, the final report from RTI recommended a nutrient offset payment factor for nitrogen in the Tar-Pamlico River Basin of $19.70 per pound of nitrogen; and

Whereas, the final report from RTI recommended a nutrient offset payment factor for phosphorous in the Tar-Pamlico River Basin of $26.02 per tenth of a pound of phosphorus; and

Whereas, the final report from RTI recommended that a 10% fee be added to the nutrient offset payments to cover the costs of program administration;

Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The per pound factors for nutrient offset payments are established as follows:

(1) For nitrogen in the Neuse River Basin, twenty-eight dollars and thirty-five cents ($28.35) per pound of nitrogen, calculated in accordance with the method used as of 1 January 2006 for determining pounds of nitrogen per acre.

(2) For nitrogen in the Tar-Pamlico River Basin, twenty-one dollars and sixty-seven cents ($21.67) per pound of nitrogen, calculated in accordance with the method used as of 1 January 2006 for determining pounds of nitrogen per acre.

(3) For phosphorous in the Tar-Pamlico River Basin, twenty-eight dollars and sixty-two cents ($28.62) per tenth of a pound of phosphorous.

SECTION 2. No later than 1 September 2009, the Department of Environment and Natural Resources shall develop and implement a plan to transition the North Carolina Ecosystem Enhancement Program nutrient offset program from a fee-based program to a program based on the actual costs of providing nutrient credits. The new program shall use the least cost alternative for providing nutrient offset credits consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin.

SECTION 3. The Department of Environment and Natural Resources shall report on its progress in developing and implementing a new fee structure for the

nutrient offset program to the Environmental Review Commission on 1 September 2008 and 1 March 2009.

SECTION 4. Nutrient offset payments may be used to partially offset the nitrogen loading requirements specified in 15A NCAC 2B .0234 and 2B .0235 for the Neuse River Basin and to partially offset the nitrogen and phosphorous loading requirements specified in 15A NCAC 2B .0258 for the Tar-Pamlico River Basin by payment into the Riparian Buffer Restoration Fund administered by the Department of Environment and Natural Resources. In addition, partial offset credits to meet the requirements of 15A NCAC 2B .0234, 2B .0235, and 2B .0258 may also be obtained through nutrient offset projects provided by organizations and parties not affiliated with the Department. All nutrient offset projects authorized under this section shall be consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin and shall be located within the same eight digit Cataloging Unit, designated by the United States Geological Survey, in which the associated nutrient loading takes place.

SECTION 5. This act becomes effective 1 September 2007 and applies to all nutrient offset payments, including those set out in 15A NCAC 2B .0240, as adopted by the Environmental Management Commission on 12 January 2006. The fee schedule set out in Section 1 of this act expires 1 September 2009.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 11:12 a.m. on the 23rd day of August, 2007.

Session Law 2007-439 **House Bill 802**

AN ACT TO PROVIDE THE DEPARTMENT OF TRANSPORTATION CONTRACTING AUTHORITY TO PROVIDE FOR TRANSPORTATION INFRASTRUCTURE, LITTER REMOVAL FROM STATE RIGHTS-OF-WAY, AND TRAVEL INFORMATION AT STATE-OWNED REST AREAS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18(39) reads as rewritten:

"§ **136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

…

(39) To enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by ~~tolls~~ tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating ~~highways, roads, streets, and bridges~~transportation infrastructure in this ~~State.~~State, with priority given to highways, roads, streets, and bridges. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations

Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision."

SECTION 2. G.S. 143B-350(f)(12a) reads as rewritten:

"(12a) To approve partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by ~~tolls~~ tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating ~~highways, roads, streets, and bridges~~transportation infrastructure in this ~~State.~~State, with priority given to highways, roads, streets, and bridges."

SECTION 3. G.S. 136-28.1 is amended by adding a new subsection to read:

"§ **136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

…

(l) The Department of Transportation may enter into as many as two pilot contracts for public private participation in providing litter removal from State right-of-way. Selection of firms to perform this work shall be made using a best value procurement process and shall be without regard to other provisions of law regarding the Adopt-A-Highway Program administered by the Department. Acknowledgement of sponsors may be indicated by appropriate signs that shall be owned by the Department of Transportation. The size, style, specifications, and content of the signs shall be determined in the sole discretion of the Department of Transportation. The Department of Transportation may issue rules and policies necessary to implement this section."

SECTION 4. G.S. 136-28.1 is amended by adding a new subsection to read:

"§ **136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

…

(m) The Department of Transportation may enter into as many as two pilot contracts for public-private participation in providing real-time traveler information at State-owned rest areas. Selection of firms to perform this work shall be made using a best value procurement process. Recognition of sponsors in the program may be indicated by appropriate acknowledgment for any services provided. The size, style, specifications, and content of the acknowledgment shall be determined in the sole discretion of the Department. Revenues generated pursuant to a contract initiated under this subsection shall be shared with Department of Transportation at a predetermined percentage or rate, and shall be earmarked by the Department to maintain the State owned rest areas from which the revenues are generated. The Department of Transportation may issue guidelines, rules, and policies necessary to administer a pilot program initiated under this subsection."

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

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 11:14 a.m. on the 23rd day of August, 2007.

Session Law 2007-440 **Senate Bill 1482**

AN ACT TO EXEMPT FROM THE REQUIREMENTS OF G.S. 136-102.6 SUBDIVISIONS LOCATED WITHIN THE EXTRATERRITORIAL PLANNING JURISDICTION OF MUNICIPALITIES HAVING A POPULATION OF AT

LEAST 500,000, IN AND TO THE EXTENT THAT SUCH SUBDIVISIONS CONTAIN STREETS THAT HAVE BEEN APPROVED BY ANY SUCH MUNICIPALITY AS MEETING THE PUBLIC STREET STANDARDS OF SUCH MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS ACT, AND TO EXEMPT SUCH SUBDIVISIONS FROM ANY ORDINANCE REQUIREMENT THAT SUCH PUBLIC STREETS MEET THE STANDARDS OF THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 136-102.6(c), (d), and (i), with respect to a subdivision plat for land located within the extraterritorial planning jurisdiction of any municipality having a population of at least 500,000, if said plat includes one or more streets approved for construction by the municipality as meeting the public street standards of the municipality prior to June 1, 2007, and said plat has not received a certificate of approval from the Division of Highways:

(1) The right-of-way and design of any street designated as public on said plat and approved for construction by the municipality prior to June 1, 2007, need not be in accordance with the minimum right-of-way and construction standards established by the Board of Transportation for acceptance on the State highway system.

(2) Said subdivision plat shall be recorded by the register of deeds without a certificate of approval by the Division of Highways if the final plat has been approved by the municipality.

(3) If and to the extent that any street designated as public on said plat meets the applicable public street standards of such municipality, said street shall be exempt from any ordinance requirement that the street also meet the standards of the North Carolina Department of Transportation and may be given final plat approval by the municipality.

SECTION 2. To the extent that any plats are recorded pursuant to this act, the disclosure statement required by G.S. 136-102.6(f) shall fully and completely disclose that any street designated as public on said plats has not been approved by and will not be accepted for maintenance by the Division of Highways and shall inform the buyer that the municipality cannot and will not accept the street until it comes within the corporate limits of the municipality through annexation and shall also disclose the arrangements that have been made to ensure the maintenance of the street prior to acceptance by the municipality.

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

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Became law upon approval of the Governor at 11:16 a.m. on the 23rd day of August, 2007.

Session Law 2007-441 **House Bill 1181**

AN ACT TO PROVIDE FOR CONTRACT FINANCING AND SURETY BONDS FOR SMALL BUSINESSES THAT CONTRACT WITH GOVERNMENTAL AGENCIES.

The General Assembly of North Carolina enacts:

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

"Part 20. Small Business Contractor Act.

"**§ 143B-472.100. Purpose and intent.**

The purpose and intent of this Part is to foster economic development and the creation of jobs by providing financial assistance to financially responsible small businesses that are unable to obtain adequate financing and bonding assistance in connection with contracts.

"**§ 143B-472.101. Definitions.**

The following definitions apply in this Part:

(1) Authority. – The North Carolina Small Business Contractor Authority created in this Part.

(2) Internal Revenue Code. – The Code as defined in G.S. 105-228.90.

(3) Contract term. – The term of a contract, including the maintenance or warranty period required by the contract and the period during which the surety may be liable for latent defects.

(4) Government agency. – The federal government, the State, an agency, or a political subdivision of the federal government or the State, or a utility regulated by the North Carolina Utilities Commission.

(5) Related party. – A party related to the applicant in a manner that would require an attribution of stock to or from the party under section 318 of the Internal Revenue Code.

(6) Secretary. – The Secretary of Commerce.

"**§ 143B-472.102. Authority creation; powers.**

(a) Creation. – The North Carolina Small Business Contractor Authority is created within the Department of Commerce.

(b) Membership. – The Authority consists of 11 members appointed as follows:

(1) Four members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom has experience in underwriting surety bonds.

(2) Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom is a present or former governmental employee with experience in administering public contracts.

(3) Three members appointed by the Governor, one of whom is a licensed general contractor and one of whom is experienced in working for private, nonprofit, small, or underutilized businesses.

(c) Terms. – Members serve four-year terms, except initial appointments. There is no prohibition against reappointment for subsequent terms. Initial appointments shall begin on January 1, 2008. Each appointing authority shall designate two of its initial appointments to serve four-year terms and the remainder of its initial appointments to serve three-year terms.

(d) Chair. – The chair shall be elected annually by the members of the Authority from the membership of the Authority and shall be a voting member.

(e) Compensation. – The Authority members shall receive no salary as a result of serving on the Authority but are entitled to per diem and allowances in accordance with G.S. 138-5.

(f) Meetings. – The Secretary shall convene the first meeting of the Authority within 60 days after January 1, 2008. Meetings shall be held as necessary as determined by the Authority.

(g) Quorum. – A majority of the members of the Authority constitutes a quorum for the transaction of business. A vacancy in the membership of the Authority does not impair the right of the quorum to exercise all rights and to perform all duties of the Authority.

(h) Vacancies. – A vacancy on the Authority resulting from the resignation of a member or otherwise is filled in the same manner in which the original appointment was made, for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(i) Removal. – Members may be removed in accordance with G.S. 143B-13. A member who misses three consecutive meetings of the Authority may be removed for nonfeasance.

(j) Powers and Duties. – The Authority has the following powers and duties:

(1) To accept grants, loans, contributions, and services.

(2) To employ staff, procure supplies, services, and property, and enter into contracts, leases, or other legal agreements, including the procurement of reinsurance, to carry out the purposes of the Authority.

(3) To acquire, manage, operate, dispose of, or otherwise deal with property, take assignments of rentals and leases, and enter into contracts, leases, agreements, and arrangements that are necessary or incidental to the performance of the duties of the Authority, upon terms and conditions that it considers appropriate.

(4) To specify the form and content of applications, guaranty agreements, or agreements necessary to fulfill the purposes of this Part.

(5) To acquire or take assignments of documents executed, obtained, or delivered in connection with assistance provided by the Authority under this Part.

(6) To fix, determine, charge, and collect any premiums, fees, charges, costs, and expenses in connection with any assistance provided by the Authority under this Part.

(7) To adopt rules, in accordance with Chapter 150B of the General Statutes, to implement this Part.

(8) To take any other action necessary to carry out its purposes.

(9) To report quarterly to the Joint Legislative Commission on Governmental Operations on the activities of the Authority, including the amount of rates, sureties, and bonds.

(k) Limitations. – Notwithstanding any other provision of this Part, the Authority may not provide financial assistance that constitutes raising money on the credit of the State or pledging the faith and credit or the taxing power of the State directly or indirectly for the payment of any debt. Before providing financial assistance to an applicant under this Part, the Authority must obtain the written certification of the Attorney General that the proposed financial assistance does not constitute raising money on the credit of the State or pledging the faith of the State directly or indirectly for the payment of any debt as provided in Section 3(2) of Article V of the North Carolina Constitution.

"§ **143B-472.103. Eligibility.**

To qualify for assistance under this Part, an applicant must meet all of the following requirements:

(1) The applicant must be a small business concern that meets the applicable size standards established by the United States Small Business Administration for business loans based on the industry in which the concern, including its affiliates, is primarily engaged and based on the industry in which the concern, not including its affiliates, is primarily engaged. In addition, in the case of an application for bonding assistance, the applicant, including its affiliates, may not have receipts for construction and service contracts in excess of the maximum amount established by the United States Small Business Administration for surety bond guarantee assistance.

(2) The applicant must be an individual, or be controlled by one or more individuals, with a reputation for financial responsibility, as determined from creditors, employers, and other individuals with personal knowledge. If the applicant is other than a sole proprietorship, at least seventy percent (70%) of the business must be owned by individuals with a reputation for financial responsibility.

(3) The applicant must be a resident of this State or be incorporated in this State and must have its principal place of business in this State.

(4) The applicant must demonstrate to the satisfaction of the Authority that it has been unable to obtain adequate financing or bonding on reasonable terms through an authorized company. If the applicant is applying for a guarantee of a loan, the applicant must have applied for and been denied a loan by a financial institution.

"**§ 143B-472.104. Small Business Contract Financing Fund.**

(a) Creation and Use. – The Small Business Contract Financing Fund is created as a special revenue fund. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to the Fund. The Authority shall use the Fund to make direct loans and guaranty payments required by defaults and to pay the portion of the administrative expenses of the Authority related to making these loans and payments.

(b) Content. – The Small Business Contract Financing Fund consists of all of the following revenue:

(1) Funds appropriated to the Fund by the State.

(2) Repayments of principal of and interest on direct loans.

(3) Premiums, fees, and any other amounts received by the Authority with respect to financial assistance provided by the Authority.

(4) Proceeds designated by the Authority from the sale, lease, or other disposition of property or contracts held or acquired by the Authority.

(5) Investment income of the Fund.

(6) Any other moneys made available to the Fund.

"**§ 143B-472.105. Contract performance assistance authorized.**

(a) Type. – The Authority is authorized to provide the following contract performance assistance:

(1) A guarantee of a loan made to the applicant.

(2) If the applicant demonstrates to the satisfaction of the Authority that it is unable to obtain money from any other source, a loan to the applicant.

(b) Qualification. – The Authority shall not lend money to an applicant or guarantee a loan unless all of the following requirements are met:

(1) The applicant meets the requirements of G.S. 143B-472.78.

(2) The loan is to be used to perform an identified contract, of which the majority of funding is provided by a government agency or a combination of government agencies.

(3) The loan is to be used for working capital or equipment needed to perform the contract, the cost of which can be repaid from contract proceeds, if the Authority has entered into an agreement with the applicant necessary to secure the loan or guaranty.

(c) Terms and Conditions. – The Authority shall set the terms and conditions for loans and for the guarantee of loans. When the Authority lends money from the Small Business Contract Financing Fund, it shall prepare loan documents that include all of the following:

(1) The rate of interest on the loan, which shall not exceed any applicable statutory limit for a loan of the same type.

(2) A payment schedule that provides money to the applicant in the amounts and at the times that the applicant needs the money to perform the contract for which the loan is made.

(3) A requirement that, before each advance of money is released to the applicant, the applicant and the Authority must cosign the request for the money.

(4) Provisions for repayment of the loan.

(5) Any other provision the Authority considers necessary to secure the loan, including an assignment of, or a lien on, payment under the contract, if allowable.

(d) Maturity. – A loan made by the Authority shall mature not later than the date the applicant is to receive full payment under the identified contract, unless the Authority determines that a later maturity date is required to fulfill the purposes of this Part.

(e) Diversity. – In selecting applicants for assistance, the Authority must consider the need to serve all geographic and political areas and subdivisions of the State.

(f) Limitation. – The total amount of loan guarantees and loans issued to each recipient during a fiscal year shall not exceed fifteen percent (15%) of the amount of money in the Fund as of the beginning of that fiscal year.

"**§ 143B-472.106. Small Business Surety Bond Fund.**

(a) Creation and Use. – The Small Business Surety Bond Fund is created as a special revenue fund. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to the Fund. The Authority shall use the Fund for the purposes of and to pay the expenses of the Authority related to providing bonding assistance.

(b) Content. – The Small Business Surety Bond Fund consists of all of the following revenue:

(1) Funds appropriated to the Fund by the State.

(2) Premiums, fees, and any other amounts received by the Authority with respect to bonding assistance provided by the Authority.

(3) Proceeds designated by the Authority from the sale, lease, or other disposition of property or contracts held or acquired by the Authority.

(4) Investment income of the Fund.

(5) Any other moneys made available to the Fund.

"**§ 143B-472.107. Bonding assistance authorized.**

(a) Guaranty. – Subject to the restrictions of this Part, the Authority, on application, may guarantee a surety for losses incurred under a bid bond, payment bond, or performance bond on an applicant's contract, of which the majority of the funding is provided by a government agency or a combination of government agencies, up to ninety percent (90%) of the surety's losses, or nine hundred thousand dollars ($900,000), whichever is less. The term of a guaranty under this section shall not exceed the contract term. The Authority may vary the terms and conditions of the guaranty from surety to surety, based on the Authority's history of experience with the surety and other factors that the Authority considers relevant.

(b) Notice. – When the Authority provides a guaranty under this section with respect to a contract, it must give the government agencies that are parties to the contract written notice of the guaranty.

(c) Bonds. – The Authority may execute and perform bid bonds, performance bonds, and payment bonds as a surety for the benefit of an applicant in connection with a contract, of which the majority of the funding is provided by a government agency or a combination of government agencies.

(d) Obligation of State. – The total amount of guarantees issued and bonds executed shall not exceed ninety percent (90%) of the amount of money in the Small Business Surety Bond Fund. The Authority shall not pledge any money other than money in the Fund for payment of a loss or bond. No action by the Authority constitutes the creation of a debt secured by a pledge of the taxing power or the faith and credit of the State or any of its political subdivisions. The face of each guarantee issued or bond executed shall contain a statement that the Authority is obligated to pay the guarantee or bond only from the revenue in the Small Business Surety Bond Fund and that neither the taxing power nor the faith and credit of the State or any of its political subdivisions is pledged in payment of the guarantee or bond. Nothing in this subsection limits the ability of the Authority to obtain reinsurance.

(e) Limitation. – The total amount of bonding assistance provided to each recipient during a fiscal year shall not exceed fifteen percent (15%) of the amount of money in the Fund as of the beginning of that fiscal year.

(f) Payment. – If the Authority considers it prudent, it may require that payment be made either to the contractor and lending institution or to the bonding authority.

"**§ 143B-472.108. Bonding assistance conditions.**

(a) Requirements. – To obtain bonding assistance under this Part, an applicant must meet the eligibility requirements of G.S. 143B-472.78 and must demonstrate to the satisfaction of the Authority that all of the following apply:

(1) A bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor.

(2) A bond is not obtainable on reasonable terms and conditions without assistance under this Part.

(3) The applicant will not subcontract more than seventy-five percent (75%) of the face value of the contract.

(b) Default. – If an applicant or a person that is a related party with respect to the applicant has ever defaulted on a bond or guaranty provided by the Authority, the Authority may approve a guaranty or bond under this Part only if one of the following applies:

(1) Five years have elapsed since the time of the default.

(2) Every default by the applicant or related party in any program administered by the Authority has been cured.

(c) Economic Effect. – Before issuing a guaranty or bond, the Authority must determine that the contract for which a bond is sought to be guaranteed or issued has a substantial economic effect. To determine the economic effect of a contract, the Authority must consider all of the following:

(1) The amount of the guaranty obligation.

(2) The terms of the bond to be guaranteed.

(3) The number of new jobs that will be created by the contract to be bonded.

(4) Any other factor that the Authority considers relevant.

"**§ 143B-472.109. Surety bonding line.**

The Authority may, on application, establish a surety bonding line in order to issue or guarantee multiple bonds to an applicant within preapproved terms, conditions, and limitations.

"**§ 143B-472.110. Application.**

To apply for assistance from the Authority under this Part, an applicant and, where applicable, a surety must submit to the Authority an application on a form prescribed by the Authority. The application must include any information and documentation the Authority considers necessary to enable the Authority to evaluate the application in accordance with this Part. The Authority may require an applicant to provide an audited balance sheet unless the Authority determines that such a requirement is not necessary or appropriate to fulfill the purposes of this Part.

"**§ 143B-472.111. Premiums and fees.**

(a) Amount. – The Authority shall by rule set the premiums and fees to be paid for providing assistance under this Part. The premiums and fees set by the Authority shall be payable in the amounts, at the time, and in the manner that the Authority requires. The premiums and fees may vary in amount among transactions and at different stages during the terms of transactions.

(b) Rate Standards. – The rate standards in G.S. 58-40-20 apply to premiums set by the Authority under this section. The Authority may also use the forms and rates of rating or advisory organizations licensed under G.S. 58-40-50 or G.S. 58-40-55. The Authority may vary from these rates in order to broaden participation by small businesses that are unable to obtain adequate financing and bonding assistance in connection with contracts. The premiums set and forms developed by the Authority under this section must be approved by the Commissioner of Insurance before they may be used.

(c) Forms. – The Authority shall develop forms to be used for financing and bonding assistance.

"**§ 143B-472.112. False statements; penalty.**

(a) Documents. – It is unlawful to knowingly make or cause any false statement or report to be made in any application or in any document submitted to the Authority.

(b) Statements. – It is unlawful to make or cause any false statement or report to be made to the Authority for the purpose of influencing the action of the Authority on an application for assistance or affecting assistance, whether or not assistance has been previously extended.

(c) Penalty. – A violation of this section is a Class 2 misdemeanor."

SECTION 2. This act becomes effective January 1, 2008, and applies to offenses committed or causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:16 a.m. on the 23rd day of August, 2007.

Session Law 2007-442 **House Bill 1537**

AN ACT TO MAKE CHANGES TO THE MEDICAID ESTATE RECOVERY LAW; TO AMEND THE LAW RESPECTING DATA SHARING BY HEALTH INSURERS WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MEDICAL ASSISTANCE; AND TO ENACT A PROCEDURE FOR THE WAIVER OF THE MEDICAID TRANSFER OF ASSETS PENALTY DUE TO UNDUE HARDSHIP.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 108A-70.5, as enacted by Section 10.21C of S.L. 2005-276, and as amended by Section 16 of S.L. 2005-345, and as amended by Section 10.9B of S.L. 2006-66, and as further amended by Section 10 of S.L. 2007-145, reads as rewritten:

"§ **108A-70.5. Medicaid Estate Recovery Plan.**

(a) There is established in the Department of Health and Human Services, the Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act of ~~1993.~~1993, to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid for the recipient. The Department shall administer the program in accordance with applicable federal law and regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. § 1396(p). ~~To the extent allowed by section 1396(p) of Title XIX of the Social Security Act, the Department may impose liens against real property, including the home, of a recipient of medical assistance. The Department shall file any liens imposed under this section in the court where the property is located in the same manner as for any other lien under North Carolina law.~~

(b) As used in this section:

(1) "Medical assistance" means medical care services paid for by the North Carolina Medicaid Program on behalf of the recipient:

a. If the recipient of any age is receiving medical care services as an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and cannot reasonably be expected to be discharged to return home; or

b. If the recipient is 55 years of age or older and is receiving one or more of the following medical care services:

1. Nursing facility services.
2. Home and community-based services.
3. Hospital care ~~and prescription drugs related to nursing facility services or home and community-based services.~~
3a. Prescription drugs.
4. Personal care services.
~~5. Medicare premiums.~~
~~6. Private duty nursing.~~
~~7. Home health aide services.~~

~~8. Home health therapy.~~

~~9. Speech pathology services.~~

(2) "Estate" means all the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1.

~~(3) "Home" means property in which a recipient has, or had immediately before or at the time of the recipient's death, an ownership interest or legal title to, consisting of the recipient's dwelling and the land used and operated in connection with the dwelling.~~

(c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and shall be recoverable only for medical care services prescribed in subsection (b) of this section. ~~To the extent that allowable Medicaid claims are not satisfied as a result of the execution of any liens held by the Department, the~~The Department is a fifth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; provided, however, that judgments in favor of other fifth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

(d) The Department of Health and Human Services shall adopt rules pursuant to Chapter 150B of the General Statutes to implement the ~~Plan~~ Plan, including rules to waive whole or partial recovery when this recovery would be inequitable because it would work an undue hardship or because it would not be administratively cost-effective and rules to ensure that all recipients are notified that their estates are subject to recovery at the time they become eligible to receive medical assistance.

~~(e) Regarding trusts that contain the assets of an individual who is disabled as defined in Title 19 of Section 1014(a)(3) of the Social Security Act, as amended, if the trust is established and managed by a nonprofit association, to the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the nonprofit association, the trust pays to the Department from these remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the North Carolina Medicaid Program.~~"

SECTION 1.(b) G.S. 108A-70.6, 108A-70.7, 108A-70.8, and 108A-70.9, as enacted by Section 10.21C of S.L. 2005-276, and as amended by Section 16 of S.L. 2005-345, and as amended by Section 10.9B of S.L. 2006-66, and as further amended by Section 10 of S.L. 2007-145, are repealed.

SECTION 2. G.S. 108A-55.4 reads as rewritten:

"§ **108A-55.4. Insurers to provide certain information to Department of Health and Human Services.**

(a) As used in this section, the terms:

(1) "Department" means the Department of Health and Human Services.

(2) "Division" means the Division of Medical Assistance of the Department of Health and Human Services.

(3) "Health insurer" includes self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, [29 USC Section 1167(1)]), service benefit plans, managed care organizations, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service as a condition of doing business in the State.

(4) "Medical assistance" means medical assistance benefits provided under the State Medical Assistance Plan.

(5) "Subscriber" means the policyholder or covered person under the insurance policy.

(6) "Applicant" means an applicant or former applicant of medical assistance benefits.

(7) "Recipient" means a present or former recipient of medical assistance benefits.

(8) "Request" means any inquiry by the Department or Division for the purpose of determining the existence of insurance where the Department or Division may have expended public assistance benefits.

(b) Health insurers, and pharmacy benefit managers regulated as third-party administrators under Article 56 of Chapter 58 of the General Statutes, shall provide, with respect to ~~individuals who are eligible for, or are provided, medical assistance,~~a subscriber upon request of the ~~Division,~~Division or its authorized contractor, information to determine during what period the individual or the individual's spouse or dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the subscriber's name, address, identification number, social security number, date of birth and identifying number of the plan) in a manner prescribed by the ~~Division.~~Division or its authorized contractor. Notwithstanding any other provision of law, every health insurer ~~issuing a health benefit plan~~ shall provide, not more frequently than twelve times in a year and at no cost, to the Department of Health and Human Services, Division of Medical Assistance, or the Department's or Division's authorized contractor, upon its request, ~~information, including automated data matches conducted under the direction of the Department of Health and Human Services, Division of Medical Assistance,~~ information as necessary ~~to~~ so that the Division may (i) identify ~~individuals~~ applicants or recipients who may also be subscribers covered under the ~~insurer's health~~ benefit plans of the health insurer; ~~who are also recipients of medical assistance;~~ (ii) determine the period during which the ~~individual or the individual's spouses~~ individual, the individual's spouse, or the individual's dependents may be or may have been covered by the health benefit plan; and (iii) determine the nature of the coverage. To facilitate the Division or its authorized contractor in obtaining this and other related information, every health insurer shall:

(1) Cooperate with the Division to determine whether a named individual who is a recipient of medical assistance may be covered under the insurer's health benefit plan and eligible to receive benefits under the health benefit plan for services provided under the State Medical Assistance Plan.

(2) Respond to the request for ~~information~~ payment within 90 working days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the ~~insurer's health benefit plan.~~benefit plan of the health insurer.

(3) Accept the Division's right of recovery and the assignment to the Division of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State Medical Assistance Plan.

(4) Respond to any inquiry by the Division or its authorized contractor regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service.

(5) Notwithstanding subsection (d) of this section, agree ~~Agree~~ not to deny a claim submitted by the Division solely on the basis of the date of submission of the claim, the type of format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:

a. The claim is submitted by the Division within the three-year period beginning on the date on which the item or service was furnished; and

b. Any action by the Division to enforce its rights with respect to such claim is commenced within six years of the Division's submission of the claim.

(c) ~~An~~ A health insurer that complies with this section shall not be liable on that account in any civil or criminal actions or proceedings.

(d) A health insurer is obligated to reimburse the Department only if the insurer has a contractual obligation to make payment for the covered service or item."

SECTION 3.(a) Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-58.2. Waiver of transfer of assets penalty due to undue hardship.**

(a) Prior to imposition of a period of ineligibility for long-term care services because of an asset transfer, also known as a penalty period, the county department of social services shall notify the individual of the individual's right to request a waiver of the penalty period because it will cause an undue hardship to the individual. The director of the county department of social services, or the director's designee shall grant a waiver of the penalty period due to undue hardship if the individual meets the conditions set forth in subsection (e) of this section. As used in this section, "long term care services" are those services described in 42 U.S.C. § 1396p(c)(1)(C)(i) and (ii).

(b) When a Medicaid applicant who is requesting Medicaid to pay for institutional care requests a waiver of a penalty period due to undue hardship, the determination of whether to waive the penalty period shall be processed as part of the Medicaid application and is subject to the application processing standards set forth in 10A NCAC 21B .0203.

(c) When an ongoing Medicaid recipient applies for institutional care or is receiving Medicaid payment for institutional care receives the notice described in subsection (a) of this section, the recipient has 12 calendar days from the date of the notice to request a waiver of the penalty due to undue hardship. The following are the procedures for processing the waiver request:

(1) Within five work days of receipt of a request for a waiver of the transfer of assets penalty, the county department of social services shall notify the individual in writing of the information and documentation necessary to determine if the requirements for approving the undue hardship waiver are met.

(2) The individual shall have 12 calendar days from the date of the notice specified in subdivision (1) of this subsection to provide the necessary information and documentation to establish the undue hardship.

(3) If at the end of the first 12 calendar day period the necessary information and documentation has not been received by the county department of social services, the county department of social services shall again notify the individual of the necessary information and documentation. The individual shall be given an additional 12 calendar days to provide the information and documentation.

(4) If the individual fails to request the undue hardship waiver within 12 calendar days from the date of the notice described in subsection (a) of this section, the county department of social services shall impose the transfer of assets penalty in accordance with notice requirements in G.S. 108A-79.

(5) If by the end of the 12 calendar days from the notice described in subdivision (3) of this subsection, the necessary information and documentation has not been received by the county department of social services, the county department of social services shall deny the request for waiver of the penalty for undue hardship and notify the individual of the denial in accordance with G.S. 108A-79.

(6) If by the end of the time allowed under subdivisions (2) and (3) of this subsection the county department of social services has received the necessary information and documentation, the county department of social services shall make a determination of whether the imposition of the penalty period would cause an undue hardship to the individual. The county department of social services shall complete the determination and notify the individual, pursuant to subsection (g) of this section, of whether the imposition of the penalty period will be waived due to undue hardship within 12 calendar days of the receipt of the necessary information and documentation.

(7) If as part of the determination described in subdivision (6) of this subsection the county department of social services identifies the need for additional information and documentation, it shall notify the individual in writing of that information and documentation. This notice shall initiate a new period of time for the individual to provide the information and documentation as set forth in subdivisions (2) and (3) of this subsection. Within 12 calendar days of the receipt of the additional information and documentation, the county department of social services shall complete the determination and notify the individual, pursuant to subsection (g) of this section, of whether the imposition of the penalty period will be waived due to undue hardship.

(d) As required by 42 U.S.C. § 1396p(c)(2)(D), the facility in which an institutionalized individual is residing may request an undue hardship waiver on behalf of the institutionalized individual with the written consent of the individual or the personal representative of the individual. A facility applying for a waiver for an individual residing in the facility shall adhere to the requirements of this section but shall not be required to advance the costs of acquiring an attorney to aid the institutionalized individual.

(e) Except as provided for in subsection (f) of this section, undue hardship exists if the imposition of the penalty period would deprive the individual of medical care, such that the individual's health or life would be endangered; or of food, clothing, shelter, or other necessities of life. The individual must provide the information and

documentation necessary to demonstrate to the director of the county department of social services or the director's designee that:

(1) The individual currently has no alternative income or resources available to provide the medical care or food, clothing, shelter, or other necessities of life that the individual would be deprived of due to the imposition of the penalty; and

(2) The individual or some other person acting on the individual's behalf is making a good faith effort to pursue all reasonable means to recover the transferred asset or the fair market value of the transferred asset, which may include:

a. Seeking the advice of an attorney and pursuing legal or equitable remedies such as asset freezing, assignment, or injunction; or seeking modification, avoidance, or nullification of a financial instrument, promissory note, loan, mortgage or other property agreement, or other similar transfer agreement; and

b. Cooperating with any attempt to recover the transferred asset or the fair market value of the transferred asset.

(3) The following definitions shall apply to this subsection.

a. "Health or life would be endangered" means a medical doctor with knowledge of the individual's medical condition certifies in writing that in his or her professional opinion, the individual will be in danger of death or the individual's health will suffer irreparable harm if a penalty period is imposed.

b. "Other necessities of life" includes basic, life sustaining utilities, including water, heat, electricity, phone, and other items or activities that without which the individual's health or life would be endangered.

c. "Income" means all income of the individual and the community spouse less a protected amount for the community spouse equal to the minimum monthly maintenance needs allowance as determined under 42 U.S.C. § 1396r-5(d), including in all circumstances the excess shelter allowance described under 42 U.S.C. § 1396r-5(d)(3)(A)(ii), without regard to any adjustment that would be made under 42 U.S.C. § 1396r-5(e), plus fifty percent (50%) of such income in excess of the protected amount.

d. "Resources" means all resources of the individual and of the community spouse except the homesite in which the individual or community spouse has an equity interest not exceeding five hundred thousand dollars ($500,000), a motor vehicle in which the individual or community spouse has an equity interest not exceeding thirty thousand dollars ($30,000), personal property, and, in the case of a community spouse, a portion of such other resources in an amount equal to the community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2), provided that such amount shall not exceed sixty percent (60%) of the maximum community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2)(A)(ii). For purposes of this

sub-subdivision, "homesite" means the principal place of residence of the individual or the community spouse in which the individual or community spouse has an equity interest.

(f) An undue hardship shall not exist when the application of a transfer of assets penalty merely causes the individual an inconvenience or restricts the individual's lifestyle.

(g) If the director of the county department of social services or the director's designee determines that:

(1) An undue hardship exists, the county department of social services shall waive the penalty period and notify the individual of approval of the waiver of the penalty in accordance with G.S. 108A-79.

(2) An undue hardship does not exist, the county department of social services shall deny the request for the waiver of the penalty and notify the individual of denial of the waiver request in accordance with G.S. 108A-79.

(h) During a penalty period that has been waived because of undue hardship, acquisition by the individual of new or increased income or resources shall be treated as a change in situation and evaluated pursuant to the rules adopted by the Department of Health and Human Services.

(i) While the determination on a request for a waiver of the penalty period due to undue hardship is pending, Medicaid shall not make payments for nursing facility services or intermediate care facility for the mentally retarded services to hold a bed for the individual, as described in 42 U.S.C. § 1396p(c)(2)(D). However, if the individual is institutionalized and receiving Medicaid payment for services, Medicaid will maintain the same level of services until the last day of the month after the latter of the following:

(1) Expiration of the 10 workday period following the notice required by G.S. 108A-79, or

(2) The date of the decision of a local appeal hearing described in G.S. 108A-79 is issued if the individual requests an appeal of the imposition of a transfer of assets penalty period within the 10 workday period described in subdivision (1) of subsection (i) of this section."

SECTION 3.(b) Notwithstanding G.S. 150B-21.3(b1), 10A NCAC 21B .0314, adopted by the Department of Health and Human Services on January 19, 2007, and approved by the Rules Review Commission on March 15, 2007, is disapproved.

SECTION 3.5. The Department of Health and Human Services shall report, by April 15, 2008, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Health and Human Services the following information:

(1) For the previous twenty four months, the total expenditure for personal care services for each year, and the total expenditure for each setting in which personal care services were provided.

(2) For the period beginning October 1, 2007, the total number of deceased recipients that received personal care services, the average expenditure for personal care services for those recipients, and the average value of the estate of those recipients.

(3) For the period beginning October 1, 2007, for each estate against which recovery is sought for the provision of personal care services,

the total amount of personal care services provided, and the value of the estate.

(4) Recommendations, if any, by the Department for a threshold to begin recovery from the estate of a deceased recipient of personal care services.

SECTION 3.6. Unless required by federal law, the Department of Health and Human Services, Division of Medical Assistance shall limit notification of estate recovery to the application process for Medicaid and to following the death of the recipient.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:17 a.m. on the 23rd day of August, 2007.

Session Law 2007-443 **House Bill 729**

AN ACT TO ADDRESS NONFLEET PRIVATE PASSENGER MOTOR VEHICLE INSURANCE RATE EVASION FRAUD AND TO AUTHORIZE THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY THE ISSUES RELATED TO AUTOMOBILE INSURANCE RATE EVASION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-37-1 reads as rewritten:

"§ **58-37-1. Definitions.**

As used in this Article:

(1) "Cede" or "cession" means the act of transferring the risk of loss from the individual insurer to all insurers through the operation of the facility.

(2) Repealed by Session Laws 1991, c. 720, s. 6.

(3) "Company" means each member of the Facility.

(4) "Eligible ~~risk"~~ risk," for the purpose of motor vehicle insurance other than nonfleet private passenger motor vehicle insurance, ~~means a person:~~ means:

a. A person who is a resident of this State who owns a motor vehicle registered or principally garaged in this ~~State or who~~State;

b. A person who has a valid driver's license in this ~~State or who~~ State;

c. A person who is required to file proof of financial responsibility ~~pursuant to~~ under Article 9A or 13 of ~~the North Carolina Motor Vehicle Code~~ Chapter 20 of the General Statutes in order to register his or her motor vehicle or to obtain a driver's license in this State; ~~or~~

d. ~~a~~ A nonresident of this State who owns a motor vehicle registered or principally garaged in this ~~State, or the~~ State; or

e. The State and its agencies and cities, counties, towns and municipal corporations in this State and their ~~agencies, provided however, that~~ agencies.

However, no person shall be deemed an eligible risk if timely payment of premium is not tendered or if there is a valid unsatisfied judgment of record against such person for recovery of amounts due for motor vehicle insurance premiums and such person has not been discharged from paying said judgment, or if such person does not furnish the information necessary to effect insurance.

(4a) "Eligible risk," for the purpose of nonfleet private passenger motor vehicle insurance, means:

a. A resident of this State who owns a motor vehicle registered or principally garaged in this State;

b. A resident of this State and who has a valid driver's license issued by this State;

c. A person who is required to file proof of financial responsibility under Article 9A or 13 of Chapter 20 of the General Statutes in order to register his or her vehicle or to obtain a driver's license in this State;

d. A nonresident of this State who owns a motor vehicle registered and principally garaged in this State;

e. A nonresident of the State who is one of the following:

1. A member of the United States armed forces stationed in this State who intends to return to his or her home state;

2. The spouse of a nonresident member of the United States armed forces stationed in this State who intends to return to his or her home state;

3. An out-of-state student who intends to return to his or her home state upon completion of his or her time as a student enrolled in school in this State; or

f. The State and its agencies and cities, counties, towns, and municipal corporations in this State and their agencies.

However, no person shall be deemed an eligible risk if timely payment or premium is not tendered or if there is a valid unsatisfied judgment of record against the person for recovery of amounts due for motor vehicle insurance premiums and the person has not been discharged from paying the judgment or if the person does not furnish the information necessary to effect insurance.

(5) "Facility" means the North Carolina Motor Vehicle Reinsurance Facility established ~~pursuant to the provisions of~~ under this Article.

(6) "Motor vehicle" means every self-propelled vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers). "Motor vehicle" also means a motorcycle, as defined in G.S. 20-4.01(27)d.

(7) "Motor vehicle insurance" means direct insurance against liability arising out of the ownership, operation, maintenance or use of a motor vehicle for bodily injury including death and property damage and includes medical payments and uninsured and underinsured motorist coverages.

With respect to motor carriers who are subject to the financial responsibility requirements established under the Motor Carrier Act of

1980, the term, "motor vehicle insurance" includes coverage with respect to environmental restoration. As used in this subsection the term, "environmental restoration" means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, water course, or body of water of any commodity transported by a motor carrier. Environmental restoration includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

(8) "Person" means every natural person, firm, partnership, association, trust, limited liability company, firm, corporation, government, or governmental agency.

(9) "Plan of operation" means the plan of operation approved pursuant to the provisions of this Article.

(10) Repealed by Session Laws 1977, c. 828, s. 10.

(11) "Principally garaged" means the vehicle is garaged for six or more months of the current or preceding year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle."

SECTION 2. G.S. 58-37-50 reads as rewritten:

"§ **58-37-50. Termination of insurance.**

No member may terminate insurance to the extent that cession of a particular type of coverage and limits is available under the provisions of this Article except for the following reasons:

(1) Nonpayment of premium when due to the insurer or producing agent.

(2) The named insured has become a nonresident of this State and would not otherwise be entitled to insurance on submission of new application under this Article.

(3) A member company has terminated an agency contract for reasons other than the quality of the agent's insureds or the agent has terminated the contract and such agent represented the company in taking the original application for insurance.

(4) When the insurance contract has been cancelled pursuant to a power of attorney given a company licensed pursuant to the provisions of G.S. 58-35-5.

(5) The named insured, at the time of renewal, fails to meet the requirements contained in the corporate charter, articles of incorporation, and/or bylaws of the insurer, when the insurer is a company organized for the sole purpose of providing members of an organization with insurance policies in North Carolina.

(6) The named insured is no longer an eligible risk under G.S. 58-37-1."

SECTION 3. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-2-164. Rate evasion fraud; prevention programs.**

(a) The following definitions apply in this section:

(1) "Applicant" means one or more persons applying for the issuance or renewal of an auto insurance policy.

(2) "Auto insurance" means nonfleet private passenger motor vehicle insurance.

(3) "Eligible applicant" means a person who is an eligible risk under G.S. 58-37-1(4a).

(4) "Insurer" means a member of the North Carolina Rate Bureau that is licensed to write and is writing auto insurance in this State.

(5) "Nonfleet" means a motor vehicle as defined in G.S. 58-40-10(2).

(6) "Private passenger motor vehicle" means a motor vehicle as defined in G.S. 58-40-10(1).

(b) It shall be a Class 3 misdemeanor for any person who, with the intent to deceive an insurer, does any of the following:

(1) Present or cause to be presented a written or oral statement in support of an application for auto insurance or for vehicle registration pursuant to G.S 20-52(a)(4) and (a)(5), knowing that the application contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.

(2) Assist, abet, solicit, or conspire with another person to prepare or make any written or oral statement that is intended to be presented to an insurer in connection with or in support of an application for auto insurance or for vehicle registration pursuant to G.S. 20-52(a)(4) and (a)(5), if the person knows that the statement contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.

In addition to any other penalties authorized by law, a violation of this subsection may be punishable by a fine of not more than one thousand dollars ($1,000) for each violation.

(c) The insurer and its agent shall also take reasonable steps to verify that the information provided by an applicant regarding the applicant's address and the place the motor vehicle is garaged is correct. The insurer may take its own reasonable steps to verify residency or eligible risk status or may rely upon the agent verification of residency or eligible risk status to meet the insurer's verification obligations under this section. The agent shall retain copies of any items obtained under this section as required under the record retention rules adopted by the Commissioner and in accordance with G.S. 58-2-185. The agent may satisfy the requirements of this section by obtaining reliable proof of North Carolina residency from the applicant or the applicant's status as an eligible risk. Reliable proof of residency or eligible risk includes but is not limited to:

(1) A pay stub with the payee's address.

(2) A utility bill showing the address of the applicant-payor.

(3) A lease for an apartment, house, modular unit, or manufactured home with a North Carolina address signed by the applicant.

(4) A receipt for personal property taxes paid.

(5) A receipt for real property taxes paid to a North Carolina locality.

(6) A monthly or quarterly financial statement from a North Carolina regulated financial institution.

(7) A valid unexpired North Carolina driver's license.

(8) A matricula consular or substantially similar document issued by the Mexican Consulate for North Carolina.

(9) A document similar to that described in subdivision (8) of this section, issued by the consulate or embassy of another country that would be accepted by the North Carolina Division of Motor Vehicles as set forth in G.S. 20-7(b4)(9).

(10) A valid North Carolina vehicle registration.

(11) A valid military ID.

(12) A valid student ID for a North Carolina school or university.

(d) In the absence of actual malice, neither an insurer, the authorized representative of the insurer, a producer, the Commissioner, an organization of which the Commissioner is a member, the North Carolina Reinsurance Facility, nor the respective employees and agents of such persons acting on behalf of such persons shall be subject to civil liability as a result of any statement or information provided or action taken pursuant to this section.

(e) In any action brought against a person that may have immunity under subsection (d) of this section for making any statement required by this section or for providing any information relating to any statement that may be requested by the Commissioner, the party bringing the action shall plead specifically in any allegation that subsection (d) of this section does not apply because the person making the statement or providing the information did so with actual malice. Subsections (d) and (e) of this section do not abrogate or modify any existing statutory or common law privileges or immunities.

(f) Every insurer shall maintain safeguards within its auto insurance business at the point of sale, renewal, and claim to identify misrepresentations by applicants regarding their addresses and the places their motor vehicles are garaged. Identified misrepresentations are subject to the requirements of Article 2 of this Chapter.

(g) If an applicant provides false and misleading information as to the applicant's or any named insured's status as an eligible applicant and that fraudulent information makes the applicant or any named insured appear to be an eligible applicant when that person is in fact not an eligible applicant, the insurer may do any or all of the following:

(1) Refuse to issue a policy.

(2) Cancel or refuse to renew a policy that has been issued.

(3) Deny coverage for any claim arising out of bodily injury or property damage suffered by the applicant. This subdivision does not apply to innocent third parties.

(h) In a civil cause of action for recovery based upon a claim for which a defendant has been convicted under this section, the conviction may be entered into evidence against the defendant and shall establish the liability of the defendant as a matter of law for such damages, fees, or costs as may be proven. The court may award the prevailing party compensatory damages including but not limited to any costs, losses, expenses, and attorneys' fees incurred in connection with any false statement of eligible risk status made in an application for insurance or incurred in connection with any claim submitted under a policy obtained as a result of a false statement of status as an eligible risk, attorneys' fees, costs, and reasonable investigative costs. If the prevailing party can demonstrate that the defendant has engaged in a pattern of violations of this section, the court may award treble damages."

SECTION 4. G.S. 58-2-163 reads as rewritten:

"§ **58-2-163. Report to Commissioner.**

Whenever any insurance company, or employee or representative of such company, or any other person licensed or registered under Articles 1 through 67 of this Chapter

knows or has reasonable cause to believe that any other person has violated G.S. 58-2-161, 58-2-162, 58-2-164, 58-2-180, 58-8-1, ~~or~~ 58-24-180(e), or whenever any insurance company, or employee or representative of such company, or any other person licensed or registered under Articles 1 through 67 of this Chapter knows or has reasonable cause to believe that any entity licensed by the Commissioner is financially impaired, it is the duty of such person, upon acquiring such knowledge, to notify the Commissioner and provide the Commissioner with a complete statement of all of the relevant facts and circumstances. Such report is a privileged communication, and when made without actual malice does not subject the person making the same to any liability whatsoever. The Commissioner may suspend, revoke, or refuse to renew the license of any licensee who willfully fails to comply with this section."

SECTION 5. The Joint Legislative Transportation Oversight Committee may study the issues related to automobile insurance rate evasion (S.B. 795 – Jenkins/H.B. 729 – Holliman) and report its findings, together with any recommended legislation, to the 2008 Session of the 2007 General Assembly upon its convening.

SECTION 6. Effective January 1, 2008, G.S. 20-52(a) as rewritten by Section 2 of S.L. 2007-209 reads as rewritten:

"(a) An owner of a vehicle subject to registration must apply to the Division for a certificate of title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application ~~form~~ provided by the Division. The application ~~form~~ must request all of the following information and may request other information the Division considers necessary:

(1) The owner's name.

(1a) If the owner is an individual, the following information:

a. The owner's mailing address and residence address.

b. One of the following:

1. The owner's North Carolina drivers license number or North Carolina special identification card number.

2. The owner's home state drivers license number or home state special identification card number and valid active duty military identification card if the owner is a person on active military duty and is stationed in this State.

3. The owner's home state drivers license number or home state special identification card number and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State.

4. The owner's home state drivers license number or home state special identification card number if the owner or co-owner intends to principally garage the vehicle in this State. "Principally garage" means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle.

c. For vehicles that have more than one owner, only one co-owner is required to provide the information requested under sub-subdivision b. of this subdivision.

(1b) If the owner is a firm, a partnership, a corporation, or another entity, the address of the entity.

(2) A description of the vehicle, including the following:
  a. The make, model, type of body, and vehicle identification number of the vehicle.
  b. Whether the vehicle is new or used and, if a new vehicle, the date the manufacturer or dealer sold the vehicle to the owner and the date the manufacturer or dealer delivered the vehicle to the owner.

(3) A statement of the owner's title and of all liens upon the vehicle, including the names and addresses of all lienholders in the order of their priority, and the date and nature of each lien.

(4) A statement that the owner is an eligible risk for insurance coverage as defined in G.S. 58-37-1.

(5) For registration and certificate of title for a nonfleet private passenger motor vehicle, a statement that providing incorrect or false and misleading information as to the owner's status as an eligible risk can result in criminal prosecution and the denial of insurance coverage for any loss of the owner under any insurance policies for which application is made if the owner provides false and misleading information as to eligible risk status.

(6) For registration and certificate of title for a nonfleet private passenger motor vehicle, a statement that the owner will inform the insurer before the next policy renewal if the owner ceases to be an eligible risk.

The application ~~form~~ must contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579. In accordance with 42 U.S.C. 405(c)(2)(C)(v), the Division may disclose a social security number obtained under this subsection only for the purpose of administering the motor vehicle registration laws and may not disclose the social security number for any other purpose. The social security number of a person who applies to register a vehicle or of a person in whose name a vehicle is registered is therefore not a public record. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. 405(c)(2)(C)(vii)."

SECTION 7. Sections 1, 3, 4, and 6 of this act become effective January 1, 2008. Section 1 applies to motor vehicle insurance policies issued or renewed on or after January 1, 2008. Sections 3 and 4 apply to applications for nonfleet private passenger motor vehicle insurance made on and after January 1, 2008. Section 6 of this act apply to applications for registration and certificate of title made on or after January 1, 2008. Section 2 of this act is effective when it becomes law and applies to motor vehicle insurance policies issued or renewed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 11:22 a.m. on the 23rd day of August, 2007.

Session Law 2007-444 **House Bill 772**

AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO SUSPEND ADMISSIONS OR SERVICES IN HOSPITALS AS

PART OF TAKING ADVERSE ACTION AGAINST A HOSPITAL'S LICENSE; TO ALLOW FOR THE WAIVER OF HOSPITAL LICENSURE RULES DURING AN EMERGENCY; TO ALLOW CRIMINAL BACKGROUND CHECKS OF EMPLOYEES OF LICENSED MENTAL HEALTH FACILITIES BY PRIVATE ENTITIES; TO MAKE TECHNICAL CORRECTIONS IN THE HEALTH CARE PERSONNEL REGISTRY STATUTES; TO REQUIRE FINES TO BE PAID PRIOR TO TRANSFER OF OWNERSHIP OF ADULT CARE HOMES; TO CHANGE TIME FRAMES OF INVESTIGATIONS OF ADULT CARE HOMES; AND TO REQUIRE THE CODIFIER OF RULES TO CHANGE THE NAME OF THE DIVISION OF FACILITY SERVICES AND THE HEALTH SERVICES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-78 reads as rewritten:

"§ **131E-78. Adverse action on a license.**

(a) The Department shall have the authority to deny, suspend, revoke, annul, withdraw, recall, cancel, or amend a license in any case when it finds a substantial failure to comply with the provisions of this Part or any rule promulgated under this Part.

~~(b) The Department shall conduct a hearing in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act, when:~~

~~(1) The Department denies an application and the applicant requests a hearing; or~~

~~(2) The Department initiates proceedings under subsection (a).~~

~~(c) Any applicant or operator who is dissatisfied with the decision of the Department as a result of the hearing provided in this section and after a written copy of the decision is served, may request a judicial review under Chapter 150A of the General Statutes, the Administrative Procedure Act.~~

(b1) The Secretary may suspend the admission of any new patients to specific areas of a hospital or suspend specific services of a hospital licensed under this Article where the conditions of the hospital constitute a substantial failure to comply with the provisions of this Part or any rule adopted under this Part and are dangerous to the health or safety of the patients. When the Secretary suspends admissions or specific services, the suspension shall be limited to the smallest possible components of the hospital. The Department shall provide consultation to assist the hospital in correcting the conditions that led to the suspension in order that the suspension can be lifted at the earliest possible time after the Secretary is satisfied that conditions or circumstances merit removal of the suspension. In determining whether to suspend admissions or services under this subsection, the Secretary shall consider the following factors:

(1) The character and degree of impact of the conditions at the hospital on the health and safety of its patients.

(2) The character and degree of impact that the proposed suspension of admissions or services would have on the functionality of the hospital and the availability of services necessary to the community or to current patients of the hospital.

(3) Whether all other reasonable means for correcting the problem have been exhausted and no less restrictive alternative to suspension of admissions or service exists.

(c1) A hospital may contest any adverse action on its license under this section in accordance with Chapter 150B of the General Statutes."

SECTION 2. Part 2 of Article 5 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

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

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

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

SECTION 3. G.S. 122C-80(b) reads as rewritten:

"(b) Requirement. – An offer of employment by a provider licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A provider shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, a provider shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this ~~section.~~section or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the provider as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the provider. Providers shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. A county that has adopted an appropriate local ordinance and has access to the Division of

Criminal Information data bank may conduct on behalf of a provider a State criminal history record check required by this section without the provider having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the provider. All criminal history information received by the provider is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section. For purposes of this subsection, the term 'private entity' means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency."

SECTION 3.1. G.S. 131D-40 is amended by adding a new subsection to read:

"(h) For purposes of this section, the term 'private entity' means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency."

SECTION 3.2. G.S. 131E-265 is amended by adding a new subsection to read:

"(h) For purposes of this section, the term 'private entity' means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency."

SECTION 4.(a) G.S. 131E-114.2 reads as rewritten:

"§ **131E-114.2. Use of medication aides to perform technical aspects of medication administration.**

(a) Facilities licensed and medication administration services provided under this Part may utilize medication aides to perform the technical aspects of medication administration consistent with G.S. 90-171.20(7) and (8), and G.S. 90-171.43.

(1) A medication aide who is employed in a facility licensed under Article ~~5, Article 6, Part 1, and Article 10~~ 5 and Article 6, Part 1 of this Chapter shall be listed as a Nurse Aide I on the Nurse Aide I Registry in addition to being listed on the Medication Aide Registry.

(2) Medication administration as used in ~~Article 5, Article 6, Part 1, and Article 10~~ Article 5 and Article 6, Part 1 of this Chapter shall not include intravenous or injectable medication services.

(b) The Commission shall adopt rules to implement this section. Rules adopted by the Commission shall include:

(1) Training and competency evaluation of medication aides as provided for under this section.

(2) Requirements for listing under the Medication Aide Registry as provided for under ~~G.S. 131E-271.~~G.S. 131E-270.

(3) Requirements for supervision of medication aides by licensed health professionals or appropriately qualified supervisory personnel consistent with this Part."

SECTION 4.(b) G.S. 131E-270(a) reads as rewritten:

"(a) The Department shall establish and maintain a Medication Aide Registry containing the names of all health care personnel in North Carolina who have successfully completed a medication aide training program that has been approved by the North Carolina Board of ~~Nursing and~~Nursing, passed a State-administered medication aide competency ~~exam.~~exam, and met any other requirements set by the Medical Care Commission."

SECTION 5.(a) G.S. 131D-2(b)(1), as amended by Sections 10.40A(i) and 41.2(a) of S.L. 2005-276, reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of two hundred fifty dollars ($250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50). A license shall not be renewed <u>nor a new license issued for a change of ownership of an adult care home</u> if outstanding fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;

b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

a. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

b. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

SECTION 5.(b) G.S. 131D-26 (a1) reads as rewritten:

"(a1) When the department of social services in the county in which a facility is located receives a complaint alleging a violation of the provisions of this Article pertaining to patient care or patient safety, the department of social services shall initiate an investigation as follows:

(1) Immediately upon receipt of the complaint if the complaint alleges a life-threatening situation.

(2) Within 24 hours if the complaint alleges abuse of a resident as defined by G.S. 131D-20(1).

(3) Within 48 hours if the complaint alleges neglect of a resident as defined by G.S. 131D-20(8).

(4) Within two weeks in all other situations.

The investigation shall be completed within ~~30~~60 days. The requirements of this section are in addition to and not in lieu of any investigatory requirements for adult protective services pursuant to Article 6 of Chapter 108A of the General Statutes."

SECTION 5.5.(a) Wherever the name "Division of Facility Services" appears in the North Carolina Administrative Code, the Codifier of Rules shall replace "Division of Facility Services" with "Division of Health Service Regulation."

SECTION 5.5.(b) Wherever the name "Health Services Commission" appears in the North Carolina Administrative Code, the Codifier of Rules shall replace "Health Services Commission" with "Commission for Public Health."

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 11:23 a.m. on the 23rd day of August, 2007.

Session Law 2007-445 **Senate Bill 1479**

AN ACT TO PROVIDE ADDITIONAL SUPPORT TO HIGH-NEED SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Board of Education shall designate schools which meet two or more of the following criteria as high-need schools:

(1) More than forty-five percent (45%) of students perform at Level 1 or Level 2 on end-of-grade or end-of-course tests,

(2) Teacher turnover rate is greater than twenty-five percent (25%), or

(3) More than eighty percent (80%) of students qualify for free or reduced-price lunches.

SECTION 1.(b) Beginning with the 2008-2009 school year, to ensure that the schools designated as high-need schools by the State Board of Education have the high quality staff and the additional support they need, the following modifications to law, policy, or both shall apply:

(1) National Board Certified Teachers who serve as mentors, literacy coaches, or in other nonadministrative instructional leadership positions at these schools shall retain the twelve percent (12%) salary increment for NBPTS certification, notwithstanding G.S. 115C-296.2.

(2) National Board Certified Teachers, teachers of the year, and other categories of accomplished teachers designated by the State Board of Education shall be given the academic freedom at these schools to use research-based practices in the classroom that go beyond the standard course of study.

SECTION 1.(c) The State Board of Education shall consider the following strategies to ensure that the high-need schools have the high quality staff and the additional support they need and shall report by January 15, 2008, to the Joint Legislative Education Oversight Committee on the cost of implementing for the 2008-2009 fiscal year:

(1) Adding additional teacher positions at these schools to reduce class size.

(2) Providing incentives to attract National Board Certified Teachers to these schools.

(3) Employing teachers at these schools for 11 months. These teachers shall use the extra month of employment for curriculum development, staff development, and planning for the next school year.

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 11:25 a.m. on the 23rd day of August, 2007.

Session Law 2007-446 **House Bill 73**

AN ACT TO IMPROVE THE STATE CAPITAL FACILITIES PROGRAM BY DIRECTING THE STATE BUILDING COMMISSION TO REVIEW THE PROGRAM AND IMPLEMENT MEASURES TO REDUCE DELAYS AND INCREASE ACCOUNTABILITY AMONG THE PARTIES TO THE DESIGN AND CONSTRUCTION PROCESS, BY INCREASING THE BIDDING AND DESIGNER SELECTION THRESHOLDS FOR STATE CONSTRUCTION CONTRACTS, AND BY DIRECTING THE STATE PERSONNEL OFFICE TO CONDUCT A MARKET STUDY OF ARCHITECT AND ENGINEERING POSITION CLASSIFICATIONS.

Whereas, delays in the completion of State capital improvement projects that occur during designer selection, the construction plan review process, construction, and the construction inspection process can result in millions of dollars in increased construction costs due to inflation; and

Whereas, the State Building Commission was created within the Department of Administration to direct and guide the State's capital facilities development and management program; and

Whereas, the State Building Commission has the responsibility for establishing the criteria for and overseeing designer selection for State facilities, adopting rules, coordinating the plan review, approval, and permit process for State capital improvements, and studying and recommending ways to improve the effectiveness and efficiency of the State's capital facilities development and management program; and

Whereas, greater clarity, coordination, and accountability among the agencies responsible for the examination of plans and specifications for the construction and renovation of State facilities and for the construction insp7ections of those facilities, the owning agencies/institutions as defined in the State Construction Manual, designers, and contractors could reduce these delays and facilitate the timely completion of such projects resulting in significant dollar savings to the State; and

Whereas, the influx of project reviews occasioned by the 2000 Higher Education Bond Act created serious workload and resource issues for the State Construction Office and the Department of Insurance; and

Whereas, costly delays in the plan review and inspections process for State construction projects are occurring in part due to the inability of the State to attract qualified architects and engineers to conduct such reviews and inspections, and there are no plans at this time for a State Personnel Office market study of architect and engineering positions; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The State Building Commission shall examine the State capital improvement process and shall establish or modify, as necessary, the guidelines for the selection of designers and the rules governing the design, plan review, and inspection of State building projects. In carrying out its examination and proposing and modifying its guidelines and rules, the Commission shall consult with all of the State departments involved in the capital improvement process, including (i) the agencies responsible for the examination of plans and specifications for the construction and renovation of State facilities and for the supervision and inspection of all work done and materials used in

the construction or renovation of State facilities (review and inspection agencies), (ii) the owning agencies/institutions as defined in the State Construction Manual (owning agencies), (iii) the Board of Governors of The University of North Carolina, and (iv) the State Board of Community Colleges. In carrying out the provisions of this section, the Commission shall:

(1) Examine the State Construction Manual for opportunities to increase the accountability of all parties to the State capital improvement process.

(2) Determine whether the review and inspection agencies have sufficiently formalized and documented their review standards and processes.

(3) Oversee the proper documentation of review standards and processes where necessary.

(4) Facilitate the establishment of clear expectations for all parties to the process, including the owning agencies, review and inspection agencies, designers, and contractors. The Commission shall work with owning agencies and review and inspection agencies to develop a standard set of time measurements for the design process and the construction process and shall consider the development of other standard measures of performance for all the parties to the design, review, inspection, and construction process.

(5) Review the State's standard design contract for opportunities to strengthen the accountability of design firms to the owning agencies. In particular, the Commission shall consider the inclusion of a designer's e-mail address as a requirement of the standard design contract.

SECTION 2. The State Building Commission shall file an interim report on or before April 30, 2008, and a final report on or before December 31, 2008, with the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Capital Improvements, the Appropriations Committees of the House of Representatives and Senate, and the Fiscal Research Division of the General Assembly. The report shall cover the activities of the Commission in implementing the provisions of Section 1 of this act and any recommendations to improve the coordination and efficacy of the design, review, inspection, and construction process. The report also shall cover the implementation of the recommendations from the Legislative Study Commission on State Construction Inspections, including:

(1) Efforts to include owning agencies on all correspondence between review and inspection agencies, designers, and contractors.

(2) Implementation of new services by review and inspection agencies, including the use of face-to-face meetings to expedite the review process and construction schedule.

(3) The impact of any statutory changes providing State agencies with greater flexibility in design and construction contracts.

SECTION 3. The State Personnel Office shall work with the Department of Administration, the Department of Insurance, and other State agencies employing architects and engineers to perform a market study of architect and engineer salaries and position classifications. The State Personnel Office shall complete the study as soon as possible, but in no event later than six months from the effective date of this section.

SECTION 4. G.S. 143-135.26(2) reads as rewritten:

"(2) To adopt rules for coordinating the plan review, approval, and permit process for State capital improvement and community college buildings, as defined in subdivision (4) of this section. The rules shall provide for a specific time frame for plan review and approval and permit issuance by each agency, consistent with applicable laws. The time frames shall be established to provide for expeditious review, approval, and permitting of State capital improvement projects and community college buildings. To further expedite the plan review, approval, and permit process, the State Building Commission shall develop a standard memorandum of understanding to be executed by the funded agency and all reviewing agencies for each State capital improvement project. The memorandum of understanding, at minimum, shall include provisions for establishing:

a. The type and frequency of plan reviews.

b. The submittal dates for each plan review.

c. The estimated plan review time for each review and reviewing agency.

d. A schedule of meeting dates."

SECTION 5. G.S. 143-341(3) reads as rewritten:

"(3) Architecture and Engineering:

a. To examine and approve all plans and specifications for the construction or renovation of:

1. All State buildings or buildings located on State lands, except those buildings over which a local building code inspection department has and exercises jurisdiction; and

2. All community college buildings requiring the estimated expenditure for construction or repair work for which public bidding is required under G.S. 143-129 prior to the awarding of a contract for such work; and to examine and approve all changes in those plans and specifications made after the contract for such work has been awarded.

a1. To organize and schedule, within three weeks of designer selection and before the design contract is let, a meeting of the stakeholders for each State capital improvement project to discuss plan review requirements and to define the terms of the memorandum of understanding developed by the State Building Commission pursuant to G.S. 143-135.26(2). The stakeholders shall include the funded agency, each State agency having plan review responsibilities for the project, and the selected designer. Notwithstanding the foregoing, the meeting need not be scheduled if the funded agency so requests.

b. To assist, as necessary, all agencies in the preparation of requests for appropriations for the construction or renovation of all State buildings.

b1. To certify that a statement of needs pursuant to G.S. 143C-3-3 is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive

project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars ($100,000).

c. To supervise the letting of all contracts for the design, construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision.

d. To supervise and inspect all work done and materials used in the construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision; and no such work may be accepted by the State or by any State agency until it has been approved by the Department.

e. To require all State agencies to use existing plans and specificiations for construction projects, where feasible. Prior to designing a project, State agencies shall consult with the Department of Administration on the availability of appropriate existing plans and specifications and the feasibility of using them for a project.

Except for sub-subdivisions b., b1., and e. of this subdivision, this subdivision does not apply to the design, construction, or renovation of projects by The University of North Carolina pursuant to G.S. 116-31.11."

SECTION 6. G.S. 143-129(a) reads as rewritten:

"(a) Bidding Required. – No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than ~~three hundred thousand dollars ($300,000)~~ five hundred thousand dollars ($500,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than ninety thousand dollars ($90,000) may be performed, nor may any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any political subdivision of the State, unless the provisions of this section are complied with.

For purchases of apparatus, supplies, materials, or equipment, the governing body of any political subdivision of the State may, subject to any restriction as to dollar amount, or other conditions that the governing body elects to impose, delegate to the manager, school superintendent, chief purchasing official, or other employee the authority to award contracts, reject bids, or readvertise to receive bids on behalf of the unit. Any person to whom authority is delegated under this subsection shall comply with the requirements of this Article that would otherwise apply to the governing body."

SECTION 7. G.S. 143-64.34 reads as rewritten:

"§ **143-64.34. Exemption of certain projects.**

~~(a)~~ State capital improvement projects under the jurisdiction of the State Building ~~Commission~~ Commission, capital improvement projects of The University of North Carolina, and community college capital improvement projects, where the estimated expenditure of public money is less than ~~one hundred thousand dollars ($100,000),~~ five hundred thousand dollars ($500,000), are exempt from the provisions of this Article.

~~(b) A capital improvement project of The University of North Carolina under G.S. 116-31.11 where the estimated expenditure of public money is less than three hundred thousand dollars ($300,000) is exempt from this Article if all of the following apply:~~

~~(1) The architectural, engineering, or surveying services to be rendered are under an open-end design agreement.~~

~~(2) The open-end design agreement has been publicly announced.~~

~~(3) The open-end design agreement complies with procedures adopted by the University and approved by the State Building Commission under G.S. 116-31.11(a)(3).~~

~~(c) A community college capital improvement project where the estimated expenditure of public money is less than three hundred thousand dollars ($300,000) is exempt from this Article if all of the following apply:~~

~~(1) The architectural, engineering, or surveying services to be rendered are under an open-end design agreement.~~

~~(2) The open-end design agreement has been publicly announced.~~

~~(3) The open-end design agreement complies with procedures adopted by the State Board of Community Colleges and approved by the State Building Commission.~~"

SECTION 8. Sections 4, 5, 6, and 7 of this act are effective when it becomes law and apply to projects that are funded on or after July 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 11:27 a.m. on the 23rd day of August, 2007.

Session Law 2007-447 **Senate Bill 1408**

AN ACT TO CLARIFY DISCIPLINARY AUTHORITY OF THE NORTH CAROLINA APPRAISAL BOARD UNDER THE NORTH CAROLINA APPRAISERS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93E-1-12(a) reads as rewritten:

"(a) The Board may take disciplinary action against registered trainees and State-licensed or State-certified real estate appraisers. Upon its own motion or the complaint of any person, the Board may investigate the actions of any person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter, any person who performs appraisals without an appropriate registration, license, or certificate, or any person who holds himself or herself out to be registered as a trainee or licensed or certified as a real estate appraiser when the person holds no registration, license, or certificate. Under no circumstances shall the Board investigate any person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter upon an anonymous complaint. If the Board finds probable cause to believe that a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter has violated any of the provisions of this Chapter, the Board may hold a hearing on the allegations of misconduct.

The Board may suspend or revoke the registration, license, or certificate granted to any person under the provisions of this Chapter or reprimand any registered trainee, licensee, or certificate holder if, following a hearing or by consent, the Board finds the registered trainee, licensee, or certificate holder to have:

(1) Procured registration, licensure, or certification pursuant to this Chapter by making a false or fraudulent representation;
(2) Made any willful or negligent misrepresentation or any willful or negligent omission of material fact;
(3) Accepted an appraisal assignment when the employment is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or when the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon consequences resulting from the appraisal assignment;
(4) Acted or held himself or herself out as a registered trainee or a State-licensed or State-certified real estate appraiser when not so registered, licensed, or certified;
(5) Failed as a State-licensed or State-certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Chapter who assists the State-licensed or State-certified real estate appraiser in performing real estate appraisals;
(6) Failed to make available to the Board for its inspection without prior notice, originals or true copies of all written contracts engaging the person's services to appraise real property, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports;
(7) Paid a fee or valuable consideration to any person for acts or services performed in violation of this Chapter;
(8) Acted as a real estate appraiser in an unworthy or incompetent manner as to endanger the interest of the public;
(9) Violated any of the standards of practice for real estate appraisers or any other rule promulgated by the Board;
(10) Performed any other act which constitutes improper, fraudulent, or other dishonest conduct; or
(11) Violated any of the provisions of this Chapter.

The Executive Director of the Board shall transmit a certified copy of all final orders of the Board suspending or revoking registrations, licenses, or certificates issued under this Chapter to the clerk of superior court of the county in which the licensee or certificate holder maintains the person's principal place of business. The clerk shall enter these orders upon the judgment docket of the county."

SECTION 2. G.S. 93E-1-12 is amended by adding a new subsection to read:

"(c1) During the course of an investigation of a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter, the Board may send to the trainee or licensed or certified real estate appraiser a letter of inquiry asking the trainee or licensed or certified real estate appraiser to respond to the inquiry. The letter of inquiry shall state the subject matter being investigated. Upon receipt of the letter of inquiry, the trainee or licensed or certified real estate appraiser shall respond to the Board within 30 calendar days. A trainee or licensed or certified real estate appraiser

shall include in the written response copies of all documents requested by the Board in the letter of inquiry."

SECTION 3. This act becomes effective October 1, 2007, and applies to complaints made and letters of inquiry sent on or after that date.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 11:31 a.m. on the 23rd day of August, 2007.

Session Law 2007-448 **Senate Bill 1365**

AN ACT TO PROVIDE THAT INTEREST EARNED ON THE WILDLIFE CONSERVATION ACCOUNT SHALL BE CREDITED TO THE ACCOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-247.2 reads as rewritten:

"§ **143-247.2. Wildlife Conservation Account; emblems for those who donate to the Account.**

(a) Account. – The Wildlife Conservation Account is established within the Wildlife Resources Fund and is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. Revenue is credited to the Account from donations of income tax refunds, from other donations, ~~and~~ from revenue derived from the sale of wildlife resources license ~~plates.~~ plates, and from interest earned on the Account balance. The Commission may use revenue in the Account only for the following purposes:

(1) To manage, preserve, or protect wildlife species that are endangered, threatened, or of special concern and are included on the State's protected animal lists.

(2) To manage, preserve, or protect nongame wildlife species that are not on the State's protected animal lists.

(3) To administer and enforce nongame wildlife programs under the jurisdiction of the Commission.

(b) Emblems. – The Commission may issue and sell appropriate emblems by which to identify recipients of the emblems as contributors to the Wildlife Conservation Account. Emblems of different size, shape, type, or design may be used to recognize contributions in different amounts. The Commission may not issue an emblem for a contribution of less than five dollars ($5.00)."

SECTION 2. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 11:34 a.m. on the 23rd day of August, 2007.

Session Law 2007-449 **Senate Bill 1383**

AN ACT TO ALLOW ANY AGENCY OF THIS STATE, OR ANY OTHER ENTITY, THAT HAS PURCHASED OR LEASED LAND WITH STATE FUNDS TO ALLOW ACCESS TO BICYCLISTS FOR THE PURPOSE OF CYCLING; PROVIDED, HOWEVER, THAT SUCH USE OF THE LAND IS NOT

PROHIBITED BY ANOTHER STATE LAW, A FEDERAL LAW, OR THE USE OF BICYCLES IN A PARTICULAR AREA WOULD CAUSE SUBSTANTIAL HARM TO THE LAND OR THE ENVIRONMENT, AND TO ALLOW THE PUBLIC TO USE THE LAND FOR THE PURPOSE OF HIKING OR WALKING.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-87.1. Use of State land for bicycling; creation of trails by volunteers.**

(a) Any land held in fee simple by this State, any agency of this State, or any land purchased or leased with funds provided by this State may be open and available for use by bicyclists upon establishment of a usage agreement. The usage agreement shall be established between the land manager and any local cycling group or organization intending to use the land and shall specify the terms and conditions for use of the land. The land manager shall designate a representative with knowledge of off-road bicycle trail building to negotiate the agreement. Upon establishment of the usage agreement, any bicyclist may use the land pursuant to the agreement.

The land manager shall not be required to create, maintain, or make available any special trails, paths, or other accommodations to any user of the land for cycling purposes. However, once a usage agreement has been established, any local cycling group or organization may create and maintain special trails for cycling purposes. Any trails created for the purpose of off-road cycling shall be created and maintained using commonly accepted best practices.

(b) Notwithstanding the provisions of subsection (a) of this section, any land may be restricted or removed from use by bicyclists if it is determined by the State, an agency of the State, or the holder of land purchased or leased with State funds that the use would cause substantial harm to the land or the environment or that the use would violate another State or federal law. Before restricting or removing land from use by bicyclists, the State, the agency of the State, or the holder of the land purchased or leased with State funds must show why the lands should not be open for use by bicyclists. Local cycling groups or organizations shall be notified of the intent to restrict or remove the land from use by bicyclists and provided an opportunity to show why cycling should be allowed on the land. Notice of any land restricted or removed from use by bicyclists pursuant to this subsection shall be filed with the Division of Bicycle and Pedestrian Transportation of the Department of Transportation.

(c) The Division of Bicycle and Pedestrian Transportation of the Department of Transportation shall keep a record of all lands made open and available for use by bicyclists pursuant to this section and shall make the information available to the public upon request.

(d) Any land open and available for use by bicyclists, pursuant to subsection (a) of this section, shall also be available to members of the public for hiking and walking. Persons using the land pursuant to this subsection shall yield the right-of-way to bicyclists when hiking or walking on any trails created and maintained for the purpose of off-road cycling and so designated along that trail.

(e) Notwithstanding any other provision of this section, any hiking, walking, or use of bicycles on game lands administered by the Wildlife Resources Commission shall be restricted to roads and trails designated for vehicular use. Hiking, walking, or bicycle use by persons not hunting shall be restricted to days closed to hunting. The Wildlife Resources Commission may restrict the use of bicycles on game lands where

necessary to protect sensitive wildlife habitat or species and shall file notice of any restrictions with the Division of Bicycle and Pedestrian Transportation of the Department of Transportation."

SECTION 2. This act becomes effective January 1, 2008. Any agreements for usage of land by bicyclists entered into prior to the effective date of this act are not affected by this act. Upon passage of this act and prior to its effective date, the State, an agency of this State, or a holder of land purchased or leased with State funds, shall determine if the land should be restricted or removed from availability and use and provide to, in writing, the Division of Bicycle and Pedestrian Transportation any reasons to support the decision.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 11:41 a.m. on the 23rd day of August, 2007.

Session Law 2007-450 **House Bill 1607**

AN ACT RECOGNIZING JUNETEENTH NATIONAL FREEDOM DAY IN NORTH CAROLINA.

Whereas, June 19, 1865, is considered the date when the last enslaved Americans were notified of their new legal status by General Gordon Granger, who arrived in Galveston, Texas, and issued General Order Number Three almost two and one-half years after President Lincoln had issued the Emancipation Proclamation; and

Whereas, former slaves in Texas began to observe June 19 as the anniversary of their emancipation and coined the term "Juneteenth"; and

Whereas, Juneteenth is the oldest nationally celebrated commemoration of the ending of slavery in the United States and is also known as "Juneteenth National Freedom Day," "Emancipation Day," "Emancipation Celebration," "Freedom Day," "Jun-Jun," "Juneteenth Independence Day"; and

Whereas, Juneteenth commemorates the survival, due to God-given strength and determination, of African-Americans through extreme adversity, hardship, and triumph; and

Whereas, Americans of all colors, creeds, cultures, religions, and countries of origin share in a common love of and respect for freedom, as well as the determination to protect their right to freedom through the democratic institutions by which the tenets of freedom are guaranteed and protected; and

Whereas, the nineteenth of June, along with the fourth of July, completes the cycle of freedom for Americans' Independence Day observance; and

Whereas, Juneteenth is recognized as a state holiday or state holiday observance in many states, including Texas, Oklahoma, Florida, Delaware, Idaho, Alaska, Iowa, California, Wyoming, Missouri, Connecticut, Illinois, Louisiana, New Jersey, New York, Colorado, Arkansas, Oregon, Kentucky, Michigan, New Mexico, Virginia, Washington, and Tennessee; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. When Juneteenth National Freedom Day or a substantially similar holiday becomes a nationally recognized holiday, the General Assembly shall recognize the nineteenth day of June each year as Juneteenth National Freedom Day, to

commemorate the end of slavery in the United States and to demonstrate racial reconciliation and healing from the legacy of slavery.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:55 a.m. on the 23rd day of August, 2007.

Session Law 2007-451 **House Bill 1785**

AN ACT TO REQUIRE CIGARETTE FIRE SAFETY BY ADOPTING A CIGARETTE FIRE-SAFETY STANDARD AND TO CLARIFY THE STOCKHOLDER REQUIREMENTS FOR A BEHAVIORAL HEALTH PROFESSIONAL CORPORATION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 92.

"Fire-Safety Standard and Firefighter Protection Act.

"**§ 58-92-1. Title.**

This Article shall be known and may be cited as the "Fire-Safety Standard and Firefighter Protection Act."

"**§ 58-92-5. Findings.**

The General Assembly finds:

(1) Cigarettes are the leading cause of fire deaths in this State and the nation.

(2) Each year in the United States, 700-900 persons are killed due to cigarette fires, and 3,000 are injured in fires ignited by cigarettes, while in this State, there were 2,916 cigarette-related fires in North Carolina during the period 2001-2006.

(3) A high proportion of the victims of cigarette fires are nonsmokers, including senior citizens and young children.

(4) Cigarette-caused fires result in billions of dollars of property losses and damages in the United States and millions of dollars in this State.

(5) Cigarette fires unnecessarily jeopardize firefighters and result in avoidable emergency response costs for municipalities.

(6) In 2004, New York State implemented a cigarette fire-safety regulation requiring cigarettes sold in that state to meet a fire-safety performance standard; in 2005, Vermont and California enacted cigarette fire-safety laws directly incorporating New York's regulation into statute; and, in 2006, Illinois, New Hampshire, and Massachusetts joined these states in enacting such laws.

(7) In 2005, Canada implemented the New York State fire-safety standard contained in the other state laws, becoming the first nation to have a cigarette fire-safety standard.

(8) New York State's cigarette fire-safety standard is based upon decades of research by the National Institute of Standards and Technology, congressional research groups, and private industry.

(9) This cigarette fire-safety standard minimizes costs to the State and minimally burdens cigarette manufacturers, distributors, and retail sellers, and, therefore, should become law in this State.

(10) It is therefore fitting and proper for this State to adopt the cigarette fire-safety standard that is in effect in New York State to reduce the likelihood that cigarettes will cause fires and result in deaths, injuries, and property damages.

"§ **58-92-10. Definitions.**

For the purposes of this Article:

(1) "Agent" means any person authorized by the Department of Revenue to pay the excise tax on packages of cigarettes.

(2) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, other than leaf tobacco.

(3) "Commissioner" means the Commissioner of Insurance.

(3a) "Consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer), for the purpose of evaluating consumer acceptance of such cigarettes.

(4) "Manufacturer" means:

a. Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer;

b. The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

c. Any entity that becomes a successor of an entity described in sub-subdivision a. or b. of this subdivision.

(5) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in G.S. 58-92-15(a6) for all test trials used to certify cigarettes in accordance with this Article.

(6) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.

(7) "Retail dealer" means any person, other than a manufacturer or distributor, engaged in selling cigarettes or tobacco products.

(8) "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit

sales, the giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales.

(9) "Sell" means to sell, or to offer or agree to do the same.

(10) "Distributor" means any person other than a manufacturer who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person, or a distributor as defined in G.S. 105-113.4(3)a.

"**§ 58-92-15. Test method and performance standard.**

(a) Except as provided in subsection (g) of this section, no cigarettes may be sold or offered for sale in this State or offered for sale or sold to persons located in this State unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the Commissioner in accordance with G.S. 58-92-20, and the cigarettes have been marked in accordance with G.S. 58-92-25.

(a1) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(a2) Testing shall be conducted on 10 layers of filter paper.

(a3) No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(a4) The performance standard required by this section shall only be applied to a complete test trial.

(a5) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (IOS) or other comparable accreditation standard required by the Commissioner.

(a6) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19.

(a7) This section does not require additional testing if cigarettes are tested consistent with this Article for any other purpose.

(a8) Testing performed or sponsored by the Commissioner to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

(b) Each cigarette listed in a certification submitted pursuant to G.S. 58-92-20 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column, or 10 millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(c) A manufacturer of a cigarette that the Commissioner determines cannot be tested in accordance with the test method prescribed in subsection (a1) of this section shall propose a test method and performance standard for the cigarette to the Commissioner. Upon approval of the proposed test method and a determination by the Commissioner that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection (a3) of this section, the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to G.S. 58-92-20. If the Commissioner determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this Article, and the Commissioner finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire-safety standards of that state's law or regulation under a legal provision comparable to this section, then the Commissioner shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this State, unless the Commissioner demonstrates a reasonable basis why the alternative test should not be accepted under this Article. All other applicable requirements of this section shall apply to the manufacturer.

(d) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years and shall make copies of these reports available to the Commissioner and the Attorney General upon written request. Any manufacturer who fails to make copies of these reports available within 60 days of receiving a written request shall be subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each day after the sixtieth day that the manufacturer does not make such copies available.

(e) The Commissioner may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in subsection (a3) of this section.

(f) The Commissioner shall review the effectiveness of this section and report every three years to the General Assembly the Commissioner's findings, and if appropriate, recommendations for legislation to improve the effectiveness of this Article. The report and legislative recommendations shall be submitted no later than June 30 following the conclusion of each three-year period.

(g) The requirements of subsections (a) through (a8) of this section shall not prohibit:

(1) Distributors or retail dealers from selling their existing inventory of cigarettes on or after the effective date of this Article if the distributor or retail dealer can establish that all taxes owed on the cigarettes pursuant to Article 2A of Chapter 105 of the General Statutes have been paid prior to the effective date of this Article and the distributor or retail dealer can establish that the inventory was purchased prior to the effective date in comparable quantity to the inventory purchased during the same period of the prior year.

(2) The sale of cigarettes solely for the purpose of consumer testing.

(h) The Commissioner shall implement this Article in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

(i) No local government may pass any ordinance changing the performance standard set forth in this section.

"**§ 58-92-20. Certification and product change.**

(a) Each manufacturer shall submit to the Commissioner a written certification attesting both of the following:

(1) Each cigarette listed in the certification has been tested in accordance with G.S. 58-92-15.

(2) Each cigarette listed in the certification meets the performance standard set forth in G.S. 58-92-15.

(b) Each cigarette listed in the certification shall be described with the following information:

(1) Brand or trade name on the package.

(2) Style, such as light or ultralight.

(3) Length in millimeters.

(4) Circumference in millimeters.

(5) Flavor, such as menthol or chocolate, if applicable.

(6) Filter or nonfilter.

(7) Package description, such as soft pack or box.

(8) Marking pursuant to G.S. 58-92-25.

(9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test.

(10) The date that the testing occurred.

(c) Certifications shall be made available to the Attorney General for purposes consistent with this Article and the Commissioner for the purposes of ensuring compliance with this section.

(d) Each cigarette certified under this section shall be recertified every three years.

(e) For each certification form, a manufacturer shall pay to the Commissioner a fee of two hundred fifty dollars ($250.00). The Commissioner may annually adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this Article.

(f) There is established in the State treasury a separate, nonreverting fund to be known as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund." The fund shall consist of all certification fees submitted by manufacturers and shall, in addition to any other monies made available for such purpose, be available to the Commissioner solely to support processing, testing, enforcement, and oversight activities under this Article.

(g) If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this Article, that cigarette shall not be sold or offered for sale in this State until the manufacturer retests the cigarette in accordance with the testing standards set forth in G.S. 58-92-15 and maintains records of that retesting as required by G.S. 58-92-15. Any altered cigarette which does not meet the performance standard set forth in G.S. 58-92-15 may not be sold in this State.

"**§ 58-92-25. Marking of cigarette packaging.**

(a) Cigarettes that are certified by a manufacturer in accordance with G.S. 58-92-20 shall be marked to indicate compliance with the requirements of G.S. 58-92-15. The marking shall be in eight-point type or larger and consist of one of the following:

(1) Modification of the product UPC Code to include a visible mark printed at or around the area of the UPC Code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC.

(2) Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap.

(3) Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this Article.

(b) A manufacturer shall use only one marking and shall apply this marking uniformly for all packages, including, but not limited to, packs, cartons, and cases and brands marketed by that manufacturer.

(c) The Commissioner shall be notified as to the marking that is selected.

(d) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the Commissioner for approval. Upon receipt of the request, the Commissioner shall approve or disapprove the marking offered, except that the Commissioner shall approve:

(1) Any marking in use and approved for sale in New York pursuant to the New York Fire Safety Standards for Cigarettes, or

(2) The letters "FSC," which signifies Fire Standards Compliant, appearing in eight-point type or larger and permanently printed, stamped, engraved, or embossed on the package at or near the UPC Code.

(d1) Proposed markings shall be deemed approved if the Commissioner fails to act within 10 business days of receiving a request for approval.

(e) No manufacturer shall modify its approved marking unless the modification has been approved by the Commissioner in accordance with this section.

(f) Manufacturers certifying cigarettes in accordance with G.S. 58-92-20 shall provide a copy of the certifications to all distributors and agents to which they sell cigarettes and shall also provide sufficient copies of an illustration of the package marking utilized by the manufacturer pursuant to this section for each retail dealer to which the distributors or agents sell cigarettes. Distributors and agents shall provide a copy of these package markings received from manufacturers to all retail dealers to which they sell cigarettes. Distributors, agents, and retail dealers shall permit the Commissioner, the Secretary of Revenue, the Attorney General, and their employees to inspect markings of cigarette packaging marked in accordance with this section.

"**§ 58-92-30. Penalties.**

(a) A manufacturer, distributor, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of G.S. 58-92-15, shall be subject to a civil penalty not to exceed one hundred dollars ($100.00) for each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty against any such person or entity exceed one hundred thousand dollars ($100,000) during any 30-day period.

(b) A retail dealer who knowingly sells or offers to sell cigarettes in violation of G.S. 58-92-15 shall be subject to a civil penalty not to exceed one hundred dollars

($100.00) for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed twenty-five thousand dollars ($25,000) for sales or offers to sell during any 30-day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to G.S. 58-92-20 shall be subject to a civil penalty of at least seventy-five thousand dollars ($75,000) but not to exceed two hundred fifty thousand dollars ($250,000) for each such false certification.

(d) Any person violating any other provision in this Article shall be subject to a civil penalty for a first offense not to exceed one thousand dollars ($1,000), and for a subsequent offense subject to a civil penalty not to exceed five thousand dollars ($5,000) for each such violation.

(e) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by G.S. 58-92-15 shall be subject to forfeiture as contraband under the same procedures as G.S. 75D-5 or G.S. 113-412. Cigarettes forfeited pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette forfeited pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(f) In addition to any other remedy provided by law, the Commissioner or Attorney General may file an action in the superior court for a violation of this Article, including petitioning for injunctive relief or to recover any costs or damages suffered by the State because of a violation of this Article, including enforcement costs relating to the specific violation and attorneys' fees. Each violation of this Article or of rules or regulations adopted under this Article constitutes a separate civil violation for which the Commissioner or Attorney General may obtain relief.

(g) Whenever any law enforcement personnel or duly authorized representative of the Commissioner shall discover any cigarettes that have not been marked in the manner required by G.S. 58-92-25, such personnel is hereby authorized and empowered to seize and take possession of such cigarettes. Such cigarettes shall be turned over to the Department of Revenue and shall be forfeited to the State. Cigarettes seized pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette seized pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(h) Any penalty imposed under this Article shall be payable to the Commissioner.

(i) A violation of this Article constitutes a civil offense only and is not a crime.

"**§ 58-92-35. Implementation.**

(a) The Commissioner may adopt rules, pursuant to Chapter 150B of the General Statutes, necessary to effectuate the purposes of this Article.

(b) The Department of Revenue in the regular course of conducting inspections of distributors, agents, and retail dealers, as authorized under the Tobacco Products Tax Act, Article 2A of Chapter 105 of the General Statutes, may inspect such cigarettes to determine if the cigarettes are marked as required by G.S. 58-92-25. If the cigarettes are not marked as required, the Department of Revenue shall notify the Commissioner.

"**§ 58-92-40. Inspection.**

To enforce the provisions of this Article, the Attorney General, the Department of Revenue, and the Commissioner, their duly authorized representatives, and other law enforcement personnel may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are

placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale is hereby directed and required to give the Attorney General, the Department of Revenue, and the Commissioner, their duly authorized representatives, and other law enforcement personnel the means, facilities, and opportunity for the examinations authorized by this section.

"**§ 58-92-45. Disposition of penalties.**

The clear proceeds of civil penalties and forfeitures provided for in this Article shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"**§ 58-92-50. Sale outside the State.**

Nothing in this Article shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of G.S. 58-92-15 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this State.

"**§ 58-92-55. Preemption.**

This Article does not apply if a federal reduced cigarette ignition propensity standard that preempts this Article is enacted and becomes effective, but such inapplicability does not affect any liability for forfeiture or penalties accrued prior to the effective date of the federal law."

SECTION 2.(a) G.S. 55B-14(c)(4) reads as rewritten:

"(c) A professional corporation may also be formed by and between or among:

…

(4) A physician, ~~or~~ a licensed psychologist, a licensed clinical social worker, or each of them~~both,~~ and a certified clinical specialist in psychiatric and mental health nursing, ~~a licensed clinical social worker,~~ a licensed marriage and family therapist, a licensed professional counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.

…"

SECTION 2.(b) The formation of any professional corporation prior to the effective date of this section is hereby validated.

SECTION 3 Section 1 of this act becomes effective January 1, 2010. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 9:45 a.m. on the 24th day of August, 2007.

Session Law 2007-452 **House Bill 22**

AN ACT TO INCREASE THE STATE TORT CLAIM LIMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-299.2 reads as rewritten:

"§ **143-299.2. Limitation on payments by the State.**

(a) The maximum amount that the State may pay cumulatively to all claimants on account of injury and damage to any one person arising out of any one occurrence, whether the claim or claims are brought under this Article, or Article 31A or Article 31B of this Chapter, shall be ~~five hundred thousand dollars ($500,000),~~ one million dollars ($1,000,000), less any commercial liability insurance purchased by the State and applicable to the claim or claims under G.S. 143-291(b), 143-300.6(c), or 143-300.16(c).

(b) The fact that a claim or claims may be brought under more than one Article under this Chapter shall not increase the above maximum liability of the State."

SECTION 2. State agencies, departments, and institutions and local boards of education shall use funds available for the 2007-2008 fiscal year to implement the provisions of this act.

SECTION 3. This act is effective when it becomes law. This act applies with respect to torts committed on or after the date this act becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 8:32 p.m. on the 27th day of August, 2007.

Session Law 2007-453 **House Bill 966**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ESTABLISH A PILOT PROGRAM AUTHORIZING THE IMPLEMENTATION OF ALTERNATIVE TEACHER SALARY PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall establish a pilot program authorizing the implementation of alternative teacher salary plans. The purpose of the pilot program is to enable local school administrative units to develop and implement new and innovative teacher salary plans that will improve student performance by financially rewarding teachers through performance pay plans, recruiting teachers to the school unit, and recruiting teachers to hard-to-fill positions in specific subject areas. The State Board of Education may select up to five local school administrative units to participate in the pilot program.

SECTION 2. Local school administrative units applying to participate in the pilot program shall submit to the State Board of Education a business plan adopted by the local board of education. The business plan shall:

(1) Explain in detail how additional flexibility regarding the use of salary funds will be used to accomplish specific improvements in student academic performance;

(2) Describe the alternative methods to be used, the changes to existing practices proposed for the pilot, the incentives or alternative salary structure to be deployed, the expectations for teachers and other employees who participate in the pilot, the anticipated results, and the methods by which teachers and other employees will be evaluated;

(3) Set out the laws, rules, and policies that must be waived to implement the business plan and the expected outcomes of waiving them;

(4) Explain how the plan will be administered in a nondiscriminatory manner to assure fair and equitable treatment of all employees and employee groups participating in the pilot;
(5) Include specific implementation, time line, management, performance, and reporting benchmarks;
(6) Include statements of how teachers and other stakeholders were included in the development of the plan; and
(7) Include a statement of how all teachers who will be directly participating in the plan conducted a verifiable secret ballot vote, a statement that the results of the vote were presented to the planning team and local board of education prior to the local board's consideration of the final plan, and a statement that the majority of teachers in the schools participating in the plan and the school administration team have agreed on the design of the plan.

SECTION 3. The State Board of Education may grant waivers of laws, rules, and policies to pilot units that are necessary to implement the business plans submitted by the pilot units.

SECTION 4. The Department of Public Instruction shall notify all school districts of the availability of the pilot projects and the time lines for submission of the business plans. The Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee as to the number of districts that have submitted business plans, the types of waivers being requested, and the status of the selection process.

SECTION 5. The Financial Services Section of the Department of Public Instruction shall monitor the implementation of the business plans by the pilot units and shall report its findings regularly to the State Board of Education and the Joint Legislative Education Oversight Committee.

SECTION 6. The Department of Public Instruction and the State Board of Education shall report to the Joint Legislative Education Oversight Committee by June 30, 2010, regarding the effectiveness and performance of all pilots implemented under this act. The report shall include any recommendations regarding the continuation, modification, or elimination of the pilot program.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 8:34 p.m. on the 27th day of August, 2007.

Session Law 2007-454 **House Bill 1649**

AN ACT TO INCREASE THE NUMBER OF VOTING MEMBERS ON THE GOVERNOR'S CRIME COMMISSION FROM THIRTY-SIX TO THIRTY-EIGHT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-478 reads as rewritten:

"§ **143B-478. Governor's Crime Commission – creation; composition; terms; meetings, etc.**

(a) There is hereby created the Governor's Crime Commission of the Department of Crime Control and Public Safety. The Commission shall consist of ~~36~~ 38 voting members and six nonvoting members. The composition of the Commission shall be as follows:

(1) The voting members shall be:

a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or his alternate), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, and the Superintendent of Public Instruction;

b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;

c. A defense attorney, three sheriffs (one of whom shall be from a "high crime area"), three police executives (one of whom shall be from a "high crime area"), ~~six~~ eight citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one advocate for victims of all crimes, one representative from a domestic violence or sexual assault program, one representative of a "private juvenile delinquency program," and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;

d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.

(2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Assistant Secretary of Intervention/Prevention of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Secretary of Youth Development of the Department of Juvenile Justice and Delinquency Prevention, the Director of the Division of Prisons and the Director of the Division of Community Corrections.

(b) The membership of the Commission shall be selected as follows:

(1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Director of the Division of Prisons, the Director of the Division of Community Corrections, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Secretary of Intervention/Prevention of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Secretary of Youth Development of the Department of Juvenile Justice and

Delinquency Prevention, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

(2) The following members shall be appointed by the Governor: the district attorney, the defense attorney, the three sheriffs, the three police executives, the ~~six~~ eight citizens, the three county commissioners or county officials, the three mayors or municipal officials.

(3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.

(4) The two members of the House of Representatives provided by subdivision (a)(1)d. of this section shall be appointed by the Speaker of the House of Representatives and the two members of the Senate provided by subdivision (a)(1)d. of this section shall be appointed by the President Pro Tempore of the Senate. These members shall perform the advisory review of the State plan for the General Assembly as permitted by section 206 of the Crime Control Act of 1976 (Public Law 94-503).

(5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed under subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The Commission members from the House and Senate shall serve two-year terms effective March 1, of each odd-numbered year; and they shall not be disqualified from Commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the Commission. Any other Commission member no longer serving in the office from which he qualified for appointment shall be disqualified from membership on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance or nonfeasance.

(e) The Commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business."

SECTION 2. Notwithstanding the provisions of G.S. 143B-478, as enacted in Section 1 of this act, the members appointed by the Governor, one of whom is an advocate for victims of all crimes and one of whom is a representative from a domestic violence or sexual assault program, shall each serve a three-year term to commence when this act becomes effective. Members described in this section shall serve for the terms for which they were appointed and until their successors are appointed and qualified.

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 3:07 a.m. on the 28th day of August, 2007.

Session Law 2007-455 **House Bill 976**

AN ACT TO CLARIFY THE DEFINITION OF PUBLIC VEHICULAR AREA IN MOTOR VEHICLE LAW AND TO REQUIRE ACCESS TO GATED COMMUNITIES FOR EMERGENCY SERVICE VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(32) reads as rewritten:

"§ **20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

…

(32) Public Vehicular Area. – Any area within the State of North Carolina that meets one or more of the following requirements:

a. The area is used by the public for vehicular traffic at any time, including by way of illustration and not limitation any drive, driveway, road, roadway, street, alley, or parking lot upon the grounds and premises of any of the following:

1. Any public or private hospital, college, university, school, orphanage, church, or any of the institutions, parks or other facilities maintained and supported by the State of North Carolina or any of its subdivisions.
2. Any service station, drive-in theater, supermarket, store, restaurant, or office building, or any other business, residential, or municipal establishment providing parking space whether the business or establishment is open or closed.
3. Any property owned by the United States and subject to the jurisdiction of the State of North Carolina. (The inclusion of property owned by the United States in this definition shall not limit assimilation of North Carolina law when applicable under the provisions of Title 18, United States Code, section 13).

b. The area is a beach area used by the public for vehicular traffic.

c. The area is a road used by vehicular traffic within or leading to a gated or non-gated subdivision or community, whether or not the subdivision or community roads have been offered for dedication to the public.

d. The area is a portion of private property used by vehicular traffic and designated by the private property owner as a public vehicular area in accordance with G.S. 20-219.4."

SECTION 2. Part 10 of Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-158.3. Emergency entry to controlled access roads.**

Any person, association, or other legal entity having responsibility for a controlled access system on a road that is a public vehicular area shall provide a means of immediate access to all emergency service vehicles, which shall include law enforcement, fire, rescue, ambulance, and first responder vehicles. This section shall not apply to any entity where federal regulations and requirements on its activities preempt application of State regulations or requirements."

SECTION 3. This act becomes effective December 1, 2007.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 8:07 p.m. on the 28th day of August, 2007.

Session Law 2007-456 **House Bill 862**

AN ACT TO AMEND THE PLANT PROTECTION AND CONSERVATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-202.15 reads as rewritten:

"**§ 106-202.15. Powers and duties of the Board.**

The Board shall have all of the following powers and duties:

(1) To adopt ~~and publish by July 1, 1980, an endangered species list, a threatened species list and a list of species of special concern, as provided for in G.S. 106-202.16,~~and maintain a list of protected plant species for North Carolina, identifying each entry by the common name and scientific ~~name and cross-referencing by family, genus, and species number as found in the current edition of "The Manual of the Vascular Flora of the Carolinas," or if not found in this edition, as identified by the American Society of Plant Taxonomists;~~ name, along with its status as endangered, threatened, or of special concern, as provided under G.S. 106-202.16.

(2) To reconsider and revise the lists from time to time in response to public proposals and as the Board deems ~~necessary;~~necessary.

(3) To conserve and to regulate the collection and shipment of those plant species or higher taxa that are of such similarity to endangered and threatened species that they cannot be easily or readily distinguished from an endangered or threatened ~~species;~~species.

(4) To regulate within the State any exotic species, in the same manner as a resident species if the exotic species is on the Federal Endangered

and Threatened Species List or it is listed in the Appendices to the International Treaty to Conserve Endangered and Threatened ~~Species;~~Species.

(5) To determine that certain plant species growing in North Carolina, whether or not they are on the endangered or threatened species list, are of special concern and to limit, regulate or forbid sale or collection of these ~~plants;~~plants.

(6) To conduct investigations to determine whether a plant should be on the protected plant lists and the requirements for survival of resident species of ~~plants;~~plants.

(7) To adopt regulations to protect, conserve and enhance resident and exotic species of plants on the lists, or to otherwise affect the intent of this ~~Article;~~Article.

(8) To develop, establish and coordinate conservation programs for endangered species and threatened species of plants, consistent with the policies of the Endangered Species Act, including the acquisition of rights to land or aquatic ~~habitats;~~habitats.

(9) To enter into and administer cooperative agreements through the Commissioner of Agriculture, in concert with the North Carolina Botanical Garden and other agencies, with the U.S. Department of Interior or other federal, State or private organizations concerning endangered and threatened species of plants and their conservation and ~~management;~~management.

(10) To cooperate or enter into formal agreements with any agency of any other state or of the federal government for the purpose of enforcing any of the provisions of this ~~Article;~~Article.

(11) Through the Commissioner, to receive funds, donations, grants or other moneys, issue grants, enter contracts, employ personnel and purchase supplies and materials necessary to fulfill its ~~duties;~~duties.

(12) To ~~promulgate regulations~~adopt rules under which the Department of Agriculture and Consumer Services may issue permits to licensed nurserymen, commercial growers, scientific supply houses and botanical gardens for the sale or distribution of plants on the protected list provided that the plants are nursery propagated ~~and~~ or grown ~~horticulturally from seeds or by vegetative propagation of cuttings, meristems or other similar materials and that the plants bear the grower's permit number.~~horticulturally.

(13) To stop the sale of or to seize any endangered, threatened, or special concern plant species, or part thereof possessed, transported, or moved within this State or brought into this State from any place outside the State if such is found by the Board or its duly authorized agent to be in violation of this Article or rules adopted pursuant to this Article. Such plants shall be moved or disposed of at the direction of the Board or its agent or by court order.

(14) To establish fees for permits authorized in this Article."

SECTION 2. G.S. 106-202.17(b) reads as rewritten:

"(b) The Scientific Committee shall consist of the Directors of The University of North Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North Carolina Botanical Garden of The University of North Carolina at

Chapel Hill, the North Carolina State Museum of Natural Sciences and the North Carolina Natural Heritage Program of the Department of Environment and Natural Resources or their designees, a representative of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a representative of ~~the Garden Club of North Carolina, Incorporated, the North Carolina Chapter of the Nature Conservancy or the North Carolina Wild Flower Preservation Society, Inc.,~~ a conservation organization, appointed by the Commissioner. Members shall serve for three-year terms and may succeed themselves."

SECTION 3. G.S. 106-202.18 reads as rewritten:

"§ **106-202.18. Powers and duties of the Scientific Committee.**

The Scientific Committee shall have all of the following powers and duties:

(1) To gather and provide information and data and advise the Board with respect to all aspects of the biology and ecology of endangered and threatened plant ~~species;~~species.

(2) To develop and present to the Board management and conservation practices for preserving endangered or threatened plant ~~species;~~species.

(3) To recommend habitat areas for acquisition to the extent that funds are available or ~~expected;~~expected.

(4) To investigate and make recommendations to the Board as to the status of endangered, threatened plant species, or species of special ~~concern;~~concern.

(5) To make recommendations to the Board concerning regulation of the collection and shipment of endangered or threatened plant species within North ~~Carolina;~~Carolina.

(6) To review and comment on ~~botanical aspects of~~ environmental impact statements prepared by ~~North Carolina~~State agencies ~~or other agencies as appropriate;~~on projects that may affect protected plants; and

(7) To advise the Board on matters submitted to the Scientific Committee by the Board or the Commissioner which involve technical questions and the development of pertinent rules and regulations, and make any recommendations as deemed by the Scientific Committee to be worthy of the Board's consideration."

SECTION 4. G.S. 106-202.19(a1) reads as rewritten:

"(a1) Any person convicted of violating this Article, or any rule of the Board adopted pursuant to this Article shall be guilty of a Class ~~3 misdemeanor, and for a first violation shall only be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00); and upon a subsequent conviction shall only be fined not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000).~~2 misdemeanor. Each illegal movement or distribution of a protected plant shall constitute a separate violation. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

SECTION 5. G.S. 106-202.19(b) reads as rewritten:

"(b) The Commissioner or any employee or agent of the Department of Agriculture and Consumer Services designated by the Commissioner to enforce the provisions of this Article, may enter any place within the State at all reasonable times where plant materials are being grown, ~~transported~~ transported, or offered for sale and

require the presentation for inspection of all pertinent papers and records relative to the provisions of this Article, after giving notice in writing to the owner or custodian of the premises to be entered. If he refuses to consent to the entry, the Commissioner may apply to any district court judge and the judge may order, without notice, that the owner or custodian of the place permit the Commissioner to enter the place for the purposes herein stated and failure by any person to obey the order may be punished as for contempt."

SECTION 6. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law upon approval of the Governor at 8:38 p.m. on the 28th day of August, 2007.

Session Law 2007-457 **House Bill 851**

AN ACT TO CLARIFY THE EDUCATIONAL REQUIREMENT FOR THE TEACHER ASSISTANT SCHOLARSHIP FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-209.35(b) reads as rewritten:

"(b) Criteria for awarding the scholarships shall be developed by the Board of Governors of The University of North Carolina in consultation with the State Board of Education and the State Board of Community Colleges and shall include all of the following:

(1) An applicant shall be employed full time as a teacher assistant in North Carolina.

(2) An applicant shall be enrolled in an accredited ~~bachelors degree program in an~~ institution of higher education in North ~~Carolina.~~ Carolina pursuing teacher licensure.

(3) An applicant shall be a resident of North Carolina. For purposes of this section, residency shall be determined by the same standard as residency for tuition purposes pursuant to G.S. 116-143.1.

(4) Any additional criteria that the Board of Governors considers necessary to administer the Fund effectively, including all of the following:

a. Consideration of the appropriate numbers of minority applicants and applicants from diverse socioeconomic backgrounds to receive scholarships pursuant to this section.

b. Consideration of the academic qualifications of the individuals applying to receive funds.

c. Consideration of the commitment an individual applying to receive funds demonstrates to the profession of teaching."

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

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 8:40 p.m. on the 28th day of August, 2007.

Session Law 2007-458 **House Bill 1148**

AN ACT TO REQUIRE THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION TO RELEASE THE IDENTIFICATION OF CERTAIN JUVENILES WHO ESCAPE FROM CUSTODY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-2102(d1) is repealed.

SECTION 2. Article 31 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"**§ 7B-3102. Disclosure of information about juveniles who escape.**

(a) Notwithstanding G.S. 7B-2102(d) or any other law to the contrary, within 24 hours of the time a juvenile escapes from custody the Department shall release to the public the juvenile's first name, last initial, and photograph; the name and location of the institution from which the juvenile escaped; and a statement, based on the juvenile's record, of the level of concern of the Department as to the juvenile's threat to self or to others, if:

(1) The juvenile escapes from a detention facility, and the juvenile is alleged to have committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(2) The juvenile escapes from a youth development center, and the juvenile has been adjudicated delinquent for an offense that would be a felony or a Class A1 misdemeanor if committed by an adult.

(b) When a juvenile escapes from custody, and the juvenile has been adjudicated for an offense that would be a Class 1, 2, or 3 misdemeanor if committed by an adult, the Department may release to the public within 24 hours the juvenile's first name, last initial, and photograph; the name and location of the institution from which the juvenile escaped, or if the juvenile's escape was not from an institution, the circumstances and location of the escape; and a statement, based on the juvenile's record, of the level of concern of the Department as to the juvenile's threat to self or to others.

(c) If a juvenile subject to subsection (a) or (b) of this section is returned to custody before the disclosure required or permitted is made, the Department shall not make the disclosure.

(d) The Department shall maintain a photograph of every juvenile in its custody."

SECTION 3.(a) G.S. 7B-2102(a) reads as rewritten:

"(a) A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701, when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Department.

(a1) A county juvenile detention facility shall photograph a juvenile who has been committed to that ~~facility if the juvenile was at least 10 years old at the time that juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701.~~ facility. The county detention facility shall release any photograph it makes or receives pursuant to this section to the Department, upon the Department's request. The duty of confidentiality in subsection (d) of this section applies to the Department, except as provided in G.S. 7B-3102."

SECTION 3.(b) G.S. 7B-2102(c) reads as rewritten:

"(c) A law enforcement officer, facility, or agency who fingerprints or photographs a juvenile pursuant to this section shall do so in a proper format for transfer to the State Bureau of Investigation and the Federal Bureau of Investigation. After the juvenile, who was 10 years of age or older at the time of the offense, is adjudicated delinquent of an offense that would be a felony if committed by an adult, fingerprints obtained pursuant to this section shall be transferred to the State Bureau of Investigation and placed in the Automated Fingerprint Identification System (AFIS) to be used for all investigative and comparison purposes. Photographs obtained pursuant to this section shall be placed in a format approved by the State Bureau of Investigation and may be used for all investigative or comparison purposes. The State Bureau of Investigation shall release any photograph it receives pursuant to this section to the Department, upon the Department's request. The duty of confidentiality in subsection (d) of this section applies to the Department, except as provided in G.S. 7B-3102."

SECTION 4. G.S. 7B-3100(b) reads as rewritten:

"(b) Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the ~~parents.~~ parents and except as provided in G.S. 7B-3102."

SECTION 5. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 8:40 p.m. on the 28th day of August, 2007.

Session Law 2007-459 **House Bill 1294**

AN ACT TO PROHIBIT SMOKING INSIDE LONG-TERM CARE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-4.4 reads as rewritten:

"§ **131D-4.4. Adult care home minimum safety ~~requirements.~~requirements; smoking prohibited inside long-term care facilities; penalty.**

(a) In addition to other requirements established by this Article or by rules adopted pursuant to this Article or other provisions of law, every adult care home shall provide to each resident the care, safety, and services necessary to enable the resident to attain and maintain the highest practicable level of physical, emotional, and social well-being in accordance with:

(1) The resident's individual assessment and plan of care; and

(2) Rules and standards relating to quality of care and safety adopted under this Chapter.

(b) Smoking is prohibited inside long-term care facilities. As used in this section:

(1) 'Long-term care facilities' include adult care homes, nursing homes, skilled nursing facilities, facilities licensed under Chapter 122C of the General Statutes, and other licensed facilities that provide long-term care services.

(2) 'Smoking' means the use or possession of any lighted cigar, cigarette, pipe, or other lighted smoking product.

(3) 'Inside' means a fully enclosed area.

(c) The person who owns, manages, operates, or otherwise controls a long-term care facility where smoking is prohibited under this section shall:

(1) Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international 'No Smoking' symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

(2) Direct any person who is smoking inside the facility to extinguish the lighted smoking product.

(3) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

(d) The Department may impose an administrative penalty not to exceed two hundred dollars ($200.00) for each violation on any person who owns, manages, operates, or otherwise controls the long-term care facility and fails to comply with subsection (c) of this section. A violation of this section constitutes a civil offense only and is not a crime."

SECTION 2. Part 1 of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-114.3. Smoking prohibited inside long-term care facilities; penalty.**

(a) Except to the extent otherwise provided by federal law, smoking is prohibited inside long-term care facilities. As used in this section:

(1) 'Long-term care facilities' include adult care homes, nursing homes, skilled nursing facilities, facilities licensed under Chapter 122C of the General Statutes, and other licensed facilities that provide long-term care services.

(2) 'Smoking' means the use or possession of any lighted cigar, cigarette, pipe, or other lighted smoking product.

(3) 'Inside' means a fully enclosed area.

(b) The person who owns, manages, operates, or otherwise controls a long-term care facility where smoking is prohibited under this section shall:

(1) Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international 'No Smoking' symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

(2) Direct any person who is smoking inside the facility to extinguish the lighted smoking product.

(3) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

(c) The Department may impose an administrative penalty not to exceed two hundred dollars ($200.00) for each violation on any person who owns, manages, operates, or otherwise controls the long-term care facility and fails to comply with subsection (b) of this section. A violation of this section constitutes a civil offense only and is not a crime."

SECTION 3. Article 1 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"**§ 122C-6. Smoking prohibited; penalty.**

(a) Smoking is prohibited inside facilities licensed under this Chapter. As used in this section, 'smoking' means the use or possession of any lighted cigar, cigarette, pipe,

or other lighted smoking product. As used in this section, 'inside' means a fully enclosed area.

(b) The person who owns, manages, operates, or otherwise controls a facility subject to this section shall:

(1) Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international 'No Smoking' symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

(2) Direct any person who is smoking inside the facility to extinguish the lighted smoking product.

(3) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

(c) The Department may impose an administrative penalty not to exceed two hundred dollars ($200.00) for each violation on any person who owns, manages, operates, or otherwise controls a facility licensed under this Chapter and fails to comply with subsection (b) of this section. A violation of this section constitutes a civil offense only and is not a crime.

(d) This section does not apply to State psychiatric hospitals."

SECTION 4. Part 3 of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-143. Smoking prohibited; penalty.**

(a) A home care agency shall prohibit its employees from smoking while providing services to an individual in the individual's home. The home care agency shall inform its clients that employees of the agency are prohibited from smoking in a client's home. As used in this section:

(1) 'Employee' includes an individual under contract with the home care agency to provide home care services.

(2) 'Smoking' means the use or possession of any lighted cigar, cigarette, pipe, or other lighted smoking product.

(b) The Department may impose an administrative penalty not to exceed two hundred dollars ($200.00) for each violation on any person who owns, manages, operates, or otherwise controls the home care agency and fails to comply with this section. A violation of this section constitutes a civil offense only and is not a crime."

SECTION 4.1 Effective January 1, 2008, G.S. 130A-493(c), as enacted by S.L. 2007-193, reads as rewritten:

"(c) The individual in charge of the State government building or the individual's designee shall post signs in conspicuous areas of the building. The signs shall state that "smoking is prohibited" and may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. In addition, in any State psychiatric hospital, the person who owns, manages, operates, or otherwise controls the hospital shall:

(1) Direct any person who is smoking inside the facility to extinguish the lighted smoking product.

(2) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice."

SECTION 5. This act becomes effective October 1, 2007, and applies to violations committed on or after that date. G.S. 131D-4.4(c)(3), 131E-114.3(b)(3), and

122C-6(b)(3), as enacted by this act, apply to individuals admitted to the facility on or after October 1, 2007. G.S. 130A-493(c)(2), as enacted by this act, applies to individuals admitted to the hospital on or after January 1, 2008.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 8:40 p.m. on the 28th day of August, 2007.

Session Law 2007-460 **House Bill 825**

AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO IMPLEMENT A FEDERALLY REQUIRED MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILIES THAT HAVE NEVER RECEIVED TANF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars ($25.00). The fee shall be reduced to ten dollars ($10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in G.S. 105-134.1.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred dollars ($500.00) of support, the State shall impose an annual fee of twenty-five dollars ($25.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred dollars ($500.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

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

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law upon approval of the Governor at 8:41 p.m. on the 28th day of August, 2007.

Session Law 2007-461 **House Bill 1259**

AN ACT TO REMOVE THE SUNSET ON THE PASS-THROUGH ENTITY ALLOCATION PROVISIONS OF THE HISTORIC REHABILITATION TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476 and Section 1 of S.L. 2003-415, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. ~~G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, 2008, for property placed in service on or after that date.~~ Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 8:48 p.m. on the 28th day of August, 2007.

Session Law 2007-462 **House Bill 1328**

AN ACT REQUIRING A PERSON CONVICTED OF A SEX OFFENSE WHO IS PURSUING CHILD CUSTODY EX PARTE TO DISCLOSE THE CONVICTION IN THE PLEADINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.1 is amended by adding a new subsection to read:

"(a1) Notwithstanding any other provision of law, any person instituting an action or proceeding for custody ex parte who has been convicted of a sexually violent offense as defined in G.S. 14-208.6(5) shall disclose the conviction in the pleadings."

SECTION 2. This act becomes effective October 1, 2007, and applies to actions or proceedings filed on or after that date.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 9:00 p.m. on the 28th day of August, 2007.

Session Law 2007-463 **House Bill 1094**

AN ACT TO MODIFY THE PUNISHMENTS FOR UNLAWFUL OPERATION OF AN AUDIOVISUAL RECORDING DEVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-440.1 reads as rewritten:

"§ **14-440.1. Unlawful operation of an audiovisual recording device.**

(a) Definitions. – The following definitions apply to this section:

(1) "Audiovisual recording device" means a digital or analog ~~photographic or~~video camera, or any other technology or device now known or later developed, capable of recording, copying, or transmitting a motion picture, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

(2) "Motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

(a1) Misdemeanor Offense. – Any person who knowingly operates or attempts to operate a device capable of functioning as a digital or analog photographic camera for the purpose of recording, copying, or transmitting a part of a motion picture not greater than one image, without the written consent of the motion picture theater owner shall be guilty of a Class 1 misdemeanor.

(b) Felony Offense. – Any person who knowingly operates or attempts to operate an audiovisual recording device in a motion picture theater to transmit, record, or otherwise make a copy of a motion picture, or any part thereof, without the written consent of the motion picture theater owner shall be guilty of a ~~violation of this section.~~felony, punishable as provided in subsection (c) of this section.

(c) Penalty. – A violation of this section is punishable as follows:

(1) Unless the conduct is covered under some other provision of law providing greater punishment, any person convicted of a violation of this section is guilty of:

a. A Class ~~1 misdemeanor,~~ I felony, if the violation is a first offense under this ~~section.~~section, with a minimum fine of two thousand five hundred dollars ($2,500).

b. A Class I felony, if the violation is a second or subsequent offense under this ~~section.~~section, with a minimum fine of five thousand dollars ($5,000).

(2) If a person is convicted of any violation of this section, the court, in its judgment of conviction, shall order the forfeiture and destruction or other disposition of the following:

a. All unauthorized copies of motion pictures or other audiovisual works, or any parts thereof.

b. All implements, devices, and equipment used or intended to be used in connection with the offense.

(d) Immunity of Certain Persons. – The owner or lessee of a motion picture theater, or the authorized agent or employee of the owner or lessee, who detains any person shall not be held civilly liable for claims arising out of such detention, when the detention is upon the premises of the motion picture theater or in a reasonable proximity thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining the person, the owner, lessee, agent, or employee had, at the time of the detention, probable cause to believe that the person committed an offense under this section. If the person being detained by the owner, lessee, agent, or employee is a minor under the age of 18 years, the owner, lessee, agent, or employee shall call or notify, or make a reasonable effort to call or notify, the parent or guardian of the minor during the period of detention. An owner, lessee, agent, or employee who makes a reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly liable for failing to notify the parent or guardian of the minor.

(e) Authorized Activities. – This section does not prevent any lawfully authorized investigative, protective, law enforcement, or intelligence gathering employee or agent of a local, State, or federal government from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 9:01 p.m. on the 28th day of August, 2007.

Session Law 2007-464 **House Bill 1471**

AN ACT TO ALLOW EXISTING CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN; AND TO ALLOW AN EXISTING CHARTER SCHOOL TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitations contained in G.S. 135-5.3 and G.S. 135-40.3A, the Board of Directors of Orange Charter School, a charter school located in Hillsborough, may elect to become a participating employer in the Teachers' and State Employees' Retirement System in accordance with Article 1 of Chapter 135 of the General Statutes and may also elect to become a participating employing unit in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in accordance with Article 3 of Chapter 135 of the General Statutes. Notwithstanding the time limitations contained in G.S. 135-40.3A, the Board of Directors of Bethany Community Middle School, a charter school in Rockingham County, may elect to become a participating employing unit in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in accordance with Article 3 of Chapter 135 of the General Statutes. Notwithstanding the time limitations contained in G.S. 135-40.3A, the board of directors of Tiller School, a charter school, may elect to become a participating employing unit in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in accordance with Article 3 of Chapter 135 of the General Statutes. The election authorized by this section shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-40.3A and, as applicable, with G.S. 135-5.3.

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 9:02 p.m. on the 28th day of August, 2007.

Session Law 2007-465 **House Bill 1912**

AN ACT TO ESTABLISH A PILOT PROGRAM TO PROVIDE FUNDS FOR LOCAL SCHOOL ADMINISTRATIVE UNITS TO RETROFIT SCHOOL BUSES IN ORDER TO REDUCE DIESEL EMISSIONS FROM CERTAIN DIESEL SCHOOL BUSES REGISTERED IN COUNTIES LOCATED IN AREAS DESIGNATED AS NONATTAINMENT OR MAINTENANCE FOR OZONE OR PARTICULATE MATTER.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative Findings. – The General Assembly makes the following findings:

(1) Diesel emissions, due in large part to their high concentrations of particulate matter, are associated with severe and multiple health risks to the citizens of North Carolina, including increased risk of cancer, decreased lung function, aggravated asthma, heart attacks, and premature death.

(2) The United States Environmental Protection Agency, recognizing the harmful effects of diesel emissions, issued new fuel and engine emission standards that will reduce particulate matter emissions from new engines ninety percent (90%) below previous levels, beginning with vehicle model year 2007.

(3) The same technology that makes ninety percent (90%) reductions in diesel emissions possible for new engines can be retrofitted onto existing engines.

(4) The Safe Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, 119 Stat. 1144, 23 U.S.C. § 149, clarified eligibility for diesel matter retrofit projects from federal congestion mitigation and air quality improvement program funds apportioned to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and establishes those projects as a priority for funding. North Carolina should act now to position itself to maximize eighty percent (80%) federal matching dollars available through this program as provided in 23 U.S.C. § 120.

SECTION 2.(a) Pilot Program to Retrofit Certain School Buses. – The Department of Environment and Natural Resources, in consultation with the Department of Public Instruction, the Department of Transportation, and stakeholders, shall develop a pilot program, to be administered by the Department of Environment and Natural Resources, to award grants to retrofit school buses in order to reduce diesel emissions from school buses in any county that is located in an area that is designated by the United States Environmental Protection Agency as nonattainment or maintenance for ozone or particulate matter. A local school administrative unit may submit an application to the Department of Environment and Natural Resources for a grant to have any eligible school bus retrofitted in order to utilize an appropriate verified diesel emission control device as determined by the Department of Environment and Natural Resources. A school bus is eligible to have a diesel retrofit using grant funds if the school bus: (i) has a model year 1994 through model year 2006 engine; (ii) is registered in a county that is located in an area that is designated by the United States Environmental Protection Agency as nonattainment or maintenance for ozone or

particulate matter; (iii) is capable of operating on diesel fuel and; (iv) is used for the transportation of public school students. The Department of Environment and Natural Resources may adopt guidelines and engineering standards as needed to implement this act. The Department of Environment and Natural Resources shall develop grant application procedures, the criteria and priorities for selecting grant recipients and further selection of which school buses of these grant recipients may use grant funds for diesel retrofits under this pilot program, and procedures for distribution of grant funds and federal-aid funds reimbursed under Section 7 of this act to a local school administrative unit selected as a grant recipient. The criteria that may be considered in grant recipient selection includes the remaining useful life of a school bus and the accumulated mileage and years of service of a school bus. Priority designation for selection of school buses for retrofits using grant funds may be given for a diesel retrofit that results in the greatest particulate matter reduction, considering the costs of operating, maintaining, and repairing the verified diesel emission control device, for the longest remaining useful life of the school bus.

SECTION 2.(b) Definitions. – As used in this act, the following definitions apply:

(1) Diesel retrofit. – Defined in Chapter 149 of Title 23 of the United States Code.

(2) Level 1 Control. – A verified diesel emission control device that achieves a particulate matter emission reduction of twenty-five percent (25%) or more but less than fifty percent (50%) from uncontrolled engine emissions levels.

(3) Level 2 Control. – A verified diesel emission control device that achieves a particulate matter emission reduction of fifty percent (50%) or more but less than eighty-five percent (85%) from uncontrolled engine emissions levels.

(4) Level 3 Control. – A verified diesel emission control device that achieves a particulate matter emission reduction of eighty-five percent (85%) or more from uncontrolled engine emission levels, or that reduces emissions to less than or equal to 0.01 grams of particulate matter per brake horsepower-hour. Level 3 Control includes repowering or replacing the existing diesel engine with an engine that meets the United States Environmental Protection Agency 2007 Heavy Duty Highway Diesel Standards set out in the Final Rule published on 18 January 2001 in the Federal Register, Volume 66, Number 12, Pages 5002 through 5193. Level 3 Control also includes new diesel engines for the 2007 model year or later that meet the emissions standards that achieve particulate matter emissions reductions that are ninety percent (90%) less than particulate matter emissions standards for diesel engines in the 2006 model year.

(5) Verified diesel emission control device. – An emission control device or strategy that has been verified by the United States Environmental Protection Agency or the California Air Resources Board; the replacement or repowering of the vehicle with an engine that is certified to specific particulate matter emissions performance by the United States Environmental Protection Agency or the California Air Resources Board; or a device that reduces crankcase emissions by ninety percent (90%) or more from uncontrolled crankcase emissions

levels, whether or not the device is verified by United States Environmental Protection Agency or the California Air Resources Board as an emission control device or strategy.

SECTION 2.(c) Appropriate Retrofit Technology. – Within one year of the effective date of this section, the Secretary of Environment and Natural Resources, in consultation with the Department of Public Instruction, may make a written finding that a model, model year, or any other category concerning the type or use of a school bus that is eligible for a grant under subsection (a) of this section cannot be retrofitted with Level 3 Control, and that the category may use grant funds to be retrofitted with Level 2 Control, if it is available and appropriate for the category, installed, and operational. Within one year of the effective date of this section, the Secretary of Environment and Natural Resources, in consultation with the Department of Public Instruction, may make a written finding that a model, model year, or any other category concerning the type or use of a school bus that is eligible for a grant under subsection (a) of this section cannot be retrofitted with Level 2 Control, and that the category may use grant funds to be retrofitted with Level 1 Control, if it is available and appropriate for the category, installed, and operational. The Secretary of Environment and Natural Resources may require additional emissions control to be used for those school buses retrofitted with Level 1 Control using grant funds. Within one year of the effective date of this section, the Secretary of Environment and Natural Resources, in consultation with the Department of Public Instruction, may make a written finding regarding: the comparative economic impact, health benefits, and technological feasibility of using Level 1 Control, Level 2 Control, Level 3 Control, or other verified diesel emission control device under this pilot program; which device results in the greatest emissions reductions, considering the cost of operating, maintaining, and repairing the devices over their anticipated useful life; recommendations regarding the appropriate verified diesel emission control device to be used for retrofits under this pilot program consistent with these findings. In addition to any other issues of retrofit technology considered when making any finding under this subsection, the Secretary of Environment and Natural Resources and the Department of Public Instruction may consider the remaining useful life of a school bus and the accumulated mileage and years of service of a school bus.

SECTION 2.(d) Coordination Among Departments. – The Department of Environment and Natural Resources shall coordinate with the Department of Public Instruction, the Department of Transportation, and the Department of Administration to determine if the effective and efficient implementation of this pilot program requires any of these departments to have a role beyond any role specified in this act, and if so, the Department of Public Instruction, the Department of Transportation, and the Department of Administration, as applicable, may adopt guidelines and engineering standards as needed to implement this section. The Department of Transportation may amend its Transportation Improvement Program and otherwise satisfy any other requirement under federal law so that school bus retrofits under this pilot program qualify for reimbursement of federal-aid funds as provided under Section 6 of this act.

SECTION 3.(a) School Bus Diesel Emissions Reduction Account Established. – The School Bus Diesel Emissions Reduction Account is established as a nonreverting account within the Department of Environment and Natural Resources. The Account shall consist of funds appropriated to it by the General Assembly and any contributions or grants from public or private sources.

SECTION 3.(b) Permissible Uses of the School Bus Diesel Emissions Reduction Account. – The Department of Environment and Natural Resources shall distribute funds in the School Bus Diesel Emissions Reduction Account as grants to local school administrative units for retrofitting school buses under this pilot program. The distributed funds shall be in an amount that is equal to twenty percent (20%) of the costs of purchasing a diesel retrofit for each school bus selected for retrofitting, based upon the costs of purchasing a diesel retrofit for a school bus as determined by the Department of Environment and Natural Resources. The funds shall be used by the local school unit to match the federal-aid funds that are to be reimbursed under Section 6 of this act, provided the Metropolitan Planning Organization for the area in which that local school administrative unit seeking grant funds under this pilot program has amended its Transportation Improvement Program and has otherwise satisfied any requirement under federal law so that the diesel retrofit as it applies to this local school administrative unit qualifies for reimbursement of federal-aid funds as provided under Section 6 of this act. Funds in the School Bus Diesel Emissions Reduction Account shall not be used for any costs associated with any school bus retrofit in excess of the sum of the twenty-percent (20%) share the local school administrative unit received in grant funds under this section for each diesel retrofit and the eighty-percent (80%) share in federal-aid funds for each diesel retrofit. Costs associated with any school bus retrofit in excess of this sum, if any, shall be borne by the local school administrative unit that operates the school bus. Any funds in the School Bus Diesel Emissions Reduction Account that have not been used or obligated as of 1 July 2008 in accordance with this section may be used to make grants to local school administrative units for one hundred percent (100%) of the costs for purchasing a diesel retrofit for a school bus as determined by the Department of Environment and Natural Resources. Funds in the School Bus Diesel Emissions Reduction Account shall not be used for any costs associated with any school bus retrofit in excess of one hundred percent (100%) of the costs for purchasing a diesel retrofit for a school bus as determined by the Department of Environment and Natural Resources, and excess costs associated with any school bus retrofit, if any, shall be borne by the local school administrative unit that operates the school bus.

SECTION 3.(c) Prohibited Uses of the School Bus Diesel Emissions Reduction Account. – Funds in the School Bus Diesel Emissions Reduction Account shall not be used for any school bus with tampered, nonconforming, or defective emission control components.

SECTION 4.(a) Transfer of Information. – On or before 1 August 2008, the Department of Public Instruction shall submit to the Department of Environment and Natural Resources the following information:

(1) The total number of school buses that are eligible for grants under Section 2(a) of this act.

(2) The number of school buses that are equipped with an engine certified to the applicable United States Environmental Protection Agency standard for particulate matter as set out in 40 Code of Federal Regulations §§ 86.007-11 (1 July 2006 Edition).

SECTION 4.(b) Annual Report Required. – On or before 1 September 2008, and again on or before 1 September 2009, the Department of Environment and Natural Resources shall submit a report to the Department of Public Instruction, the Department of Transportation, and the Environmental Review Commission on the pilot program

under this act. This report shall include the information submitted under subsection (a) of this section and shall also include:

(1) The total number of school buses that have the retrofit technology installed and operational under this pilot program, including a breakdown by location, vehicle model year, engine year, and the type of verified diesel emission control device used for each school bus.

(2) The anticipated emissions reductions based on the emissions certification of the verified diesel emission control devices used and the annual miles the school buses are expected to drive.

(3) Any recommendations to further reduce diesel emissions from school buses and whether the program to retrofit certain school buses registered in a county that is located in an area that is designated by the United States Environmental Protection Agency as nonattainment or maintenance for ozone or particulate matter is accomplishing its purpose to reduce diesel emissions, improve air quality, and protect students' health.

(4) The feasibility and the cost of expanding the funding for this pilot program for all eligible school buses for local school administrative units in counties that are located in an area that is designated by the United States Environmental Protection Agency as nonattainment or maintenance for ozone or particulate matter.

(5) The feasibility and the cost of expanding this pilot program statewide.

SECTION 5. Credit for Emissions Reductions. – The Department of Environment and Natural Resources shall work together with federal, State, and local air quality and transportation agencies to determine how emissions reductions achieved through implementation of this act may be quantified and credited by the United States Environmental Protection Agency to the appropriate emissions reduction objectives in the State Implementation Plan or Transportation Conformity determinations.

SECTION 6. Reimbursement of Federal-Aid Funds. – The Department of Transportation may reimburse up to two million dollars ($2,000,000) for the 2007-2008 fiscal year from the federal congestion mitigation and air quality improvement program funds apportioned to the State of North Carolina by the United States pursuant to 23 U.S.C. § 104(b)(2), to the Department of Environment and Natural Resources for the costs of purchasing diesel retrofits for school buses under the pilot program under this act. This reimbursement may provide the eighty percent (80%) in federal-aid funds, as provided in 23 U.S.C. § 120, for the costs of purchasing diesel retrofits for school buses to supplement the funds awarded as grants under Section 3(b) of this act. The Department of Transportation and the Department of Environment and Natural Resources may enter into a contract that provides for the terms and method by which the Department of Environment and Natural Resources bills the Department of Transportation for reimbursement of eligible costs of purchasing diesel retrofits for school buses and submits itemized invoices with proper supporting documentation. This contract may provide a reimbursement schedule.

SECTION 7. Effective Dates. – Section 6 of this act becomes effective 1 July 2007, and the remainder of this act is effective when this act becomes law, but Sections 1 through 6 of this act become effective only if the 2007 General Assembly appropriates funds for the 2007-2008 fiscal year to the School Bus Diesel Emissions Reduction Account established in Section 3(a) of this act to be used for grants to local

school administrative units for the purchase of diesel retrofits for school buses consistent with the pilot program under this act.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 3:02 a.m. on the 29th day of August, 2007.

Session Law 2007-466 **House Bill 1739**

AN ACT TO ALLOW STUDENTS PLACED ON SHORT-TERM SUSPENSIONS TO TAKE THEIR TEXTBOOKS HOME FOR THE DURATION OF THE SHORT-TERM SUSPENSION AND TO HAVE ACCESS TO HOMEWORK ASSIGNMENTS AND TO ENSURE THAT PARENTS RECEIVE ACTUAL NOTICE OF A STUDENT'S EXPULSION OR SUSPENSION FROM SCHOOL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-391(b) reads as rewritten:

"(b) The principal of a school, or his or her delegate, shall have authority to suspend for a period of 10 days or less any student who willfully violates policies of conduct established by the local board of ~~education: Provided, that a~~ education. When a student is suspended under this subsection for a period of 10 days or less, the principal, or his or her delegate, shall give notice to the student's parent or guardian of the student's suspension and the student's rights under this subsection. The notice shall be given by telephone, telefax, e-mail, or any other method reasonably designed to achieve actual notice. A student suspended ~~pursuant to~~ under this subsection shall be provided ~~an opportunity to take any quarterly, semester or grading period examinations missed during the suspension period.~~all of the following:

(1) The opportunity to take textbooks home for the duration of the suspension.

(2) The right to inquire about homework assignments for the duration of the suspension.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period."

SECTION 2. G.S. 115C-391(d5) reads as rewritten:

"(d5) When a student is expelled or suspended for more than 10 days, the local board shall give notice to the student's parent or guardian by certified mail, telephone, telefax, e-mail, or any other method reasonably designed to achieve actual notice of the student's rights under this section. If English is the second language of the parent or guardian, the notice shall be written in the parent or guardian's first language when the appropriate foreign language resources are readily available and in English, and both versions shall be in plain language and shall be easily understandable."

SECTION 3. This act is effective when it becomes law and applies beginning with the 2007-2008 school year.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 3:05 a.m. on the 29th day of August, 2007.

Session Law 2007-467 **House Bill 1529**

AN ACT TO ESTABLISH THE COMMITTEE ON ACTUARIAL VALUATION OF RETIRED EMPLOYEES' HEALTH BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-38.1. Committee on Actuarial Valuation of Retired Employees' Health Benefits.**

(a) There is established the Committee on Actuarial Valuation of Retired Employees' Health Benefits. The Committee shall be responsible for collecting data and reviewing assumptions for the sole purpose of conducting required actuarial valuations of State supported retired employees' health benefits under other post-employment benefit accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation.

(b) The Committee on Actuarial Valuation of Retired Employees' Health Benefits shall consist of five members serving ex officio, as follows:

(1) The State Budget Officer, who shall serve as the Chair;

(2) The State Auditor;

(3) The State Controller;

(4) The State Treasurer; and

(5) The Executive Administrator for the Teachers' and the State Employees' Comprehensive Major Medical Plan.

(c) A majority of the members of the Committee then serving shall constitute a quorum.

(d) Each member shall be entitled to one vote on the Committee. Three affirmative votes shall be necessary for a decision by the members at any meeting of the Committee.

(e) The Committee shall keep in convenient form such data as is necessary for actuarial valuation of retired employees' health benefits under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. The Department of State Treasurer, Retirement Systems Division, the Teachers' and State Employees' Comprehensive Major Medical Plan, and any other State agency, department, or university institution, local public school agency, or local community college institution shall provide any necessary data upon request of the Committee for the purpose of conducting its responsibilities.

(f) The Committee shall designate either the actuary under contract with the Department of State Treasurer, Retirement Systems Division, or the actuary under contract with the Teachers' and State Employees' Comprehensive Major Medical Plan as the technical adviser to the Committee on matters regarding the actuarial valuation of retired employees' health benefits created by the provisions of this Chapter. The technical advisor shall perform such actuarial valuation and other duties as are required under this Chapter.

(g) The Committee shall secure an annual calendar-year actuarial valuation of retired employees' health benefits under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation.

(h) The Committee shall keep a record of all of its proceedings which shall be open to public inspection."

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

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law upon approval of the Governor at 3:09 a.m. on the 29th day of August, 2007.

Session Law 2007-468 **House Bill 1488**

AN ACT AMENDING THE PSYCHOLOGY PRACTICE ACT TO CLARIFY REQUIREMENTS FOR PERMANENT LICENSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-270.4(e) reads as rewritten:

"(e) ~~Nothing~~ Subject to subsection (g) of this section, nothing in this Article shall be construed to prevent a qualified ~~members~~ member of other professional groups licensed or certified under the laws of this State from rendering services within the scope of practice, as defined in the statutes regulating those professional practices, provided ~~they do~~ the person does not hold ~~themselves~~ himself or herself out to the public by any title or description stating or implying that ~~they are psychologists~~the person is a psychologist or ~~are~~ licensed, certified, or registered to practice psychology."

SECTION 2. G.S. 90-270.4(g) reads as rewritten:

"(g) Except as ~~otherwise provided in this Article,~~ provided in subsection (c) of this section, if a person who is otherwise exempt from the provisions of this Article and not required to be licensed under this Article is or becomes licensed under this Article, he or she shall ~~be required to~~ comply with all ~~conditions, requirements, and obligations imposed by~~ Board rules ~~or by statute upon~~ and statutes applicable to all other psychologists licensed under this ~~Article.~~Article. These requirements apply regardless of whether the person holds himself or herself out to the public by any title or description stating or implying that the person is a psychologist, a licensed psychological associate, or licensed to practice psychology."

SECTION 3. G.S. 90-270.6 reads as rewritten:

"§ **90-270.6. Psychology Board; appointment; term of office; composition.**

For the purpose of carrying out the provisions of this Article, there is created a North Carolina Psychology Board, which shall consist of seven members appointed by the Governor. At all times three members shall be licensed psychologists, two members shall be licensed psychological associates, and two members shall be members of the public who are not licensed under this Article. ~~Each member of the Board must reside in a different congressional district at the time of the appointment. Due~~ The Governor shall give due consideration ~~shall also be given~~ to the adequate representation of the various fields and areas of practice of ~~psychology.~~psychology and to adequate representation from various geographic regions in the State. Terms of office shall be three years. All terms of service on the Board expire June 30 in appropriate years. As the term of a psychologist member expires, or as a vacancy of a psychologist member occurs for any other reason, the North Carolina Psychological Association, or its successor, shall, having sought the advice of the chairs of the graduate departments of psychology in the State, for each vacancy, submit to the Governor a list of the names of three eligible persons. From this list the Governor shall make the appointment for a full term, or for the remainder of the unexpired term, if any. Each Board member shall serve until his or her successor has been appointed. As the term of a member expires, or if one should

become vacant for any reason, the Governor shall appoint a new member within 60 days of the vacancy's occurring. No member, either public or licensed under this Article, shall serve more than three complete consecutive terms."

SECTION 4. G.S. 90-270.13(a) reads as rewritten:

"(a) Upon application and payment of the ~~requisite~~ required fee, the Board shall grant permanent licensure at the appropriate level to any person who, at the time of ~~application, is~~ application meets all of the following requirements:

(1) Is licensed or certified as a psychologist by a similar psychology licensing board in another ~~jurisdiction, whose~~ jurisdiction.

(2) The license or certification is in good ~~standing, who is~~ standing.

(3) Is a graduate of an institution of higher ~~education, who passes any~~ education.

(4) Who passes an examination prescribed by the ~~Board, and who meets~~ Board.

(5) Meets the definition of a senior psychologist as that term is defined by the rules of the Board."

SECTION 5. G.S. 90-270.13 is amended by adding a new subsection to read:

"(a1) Upon application and payment of the required fee, the Board shall grant permanent licensure at the appropriate level to any person who, at the time of application, meets all of the following requirements:

(1) Is licensed or certified as a psychologist by a similar psychology licensing board in another jurisdiction.

(2) The license or certification is in good standing.

(3) Possesses a doctoral degree in psychology from an institution of higher education.

(4) Passes an examination prescribed by the Board.

(5) Has no unresolved complaints in any jurisdiction at the time of application in this State.

(6) Holds a current credential for psychology licensure mobility, as defined in rules adopted by the Board."

SECTION 6. G.S. 90-270.13(f) reads as rewritten:

"(f) The Board may deny licensure to any person otherwise eligible for permanent licensure under this ~~subsection~~ section upon documentation of ~~illegal, immoral, dishonorable, unprofessional, or unethical~~ conduct ~~as~~ specified in G.S. 90-270.15."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Became law upon approval of the Governor at 3:11 a.m. on the 29th day of August, 2007.

Session Law 2007-469 **House Bill 38**

AN ACT TO PROVIDE FOR A PUBLIC ALERT TO BE ISSUED WHEN A PERSON WITH DEMENTIA OR OTHER COGNITIVE IMPAIRMENT IS REPORTED MISSING, TO INCLUDE CAREGIVERS AMONG THOSE WHO CAN REPORT AN INDIVIDUAL MISSING, TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE PROVISIONS CONCERNING THE NORTH CAROLINA CENTER FOR MISSING PERSONS, AND TO EXEMPT

EMS WORKERS LOCATING MISSING PERSONS FROM THE PRIVATE PROTECTIVE SERVICES ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-499 reads as rewritten:

"§ **143B-499. Submission of missing person reports to the Center.**

Any parent, spouse, guardian, ~~or~~ legal custodian, or person responsible for the supervision of the missing individual may submit a missing person report to the Center of any missing child or missing person, regardless of the circumstances, after having first submitted a missing person report on the individual to the law-enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing, regardless of the circumstances."

SECTION 2. G.S. 143B-499.1 reads as rewritten:

"§ **143B-499.1. Dissemination of missing persons data by law-enforcement agencies.**

A law-enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, ~~or~~ legal custodian, or person responsible for the supervision of the missing individual shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on-duty law-enforcement officers of the missing person report, initiate a statewide broadcast to all appropriate law-enforcement agencies to be on the lookout for the individual, and transmit a copy of the report to the Center. No law enforcement agency shall establish or maintain any policy which requires the observance of any waiting period before accepting a missing person report.

If the report involves a missing child and the report meets the criteria established in G.S. 143B-499.7(b), as soon as practicable after receipt of the report, the law enforcement agency shall notify the Center and the National Center for Missing and Exploited Children of the relevant data about the missing child."

SECTION 3. G.S. 143B-499.3 reads as rewritten:

"§ **143B-499.3. Duty of individuals to notify Center and law-enforcement agency when missing person has been located.**

Any parent, spouse, guardian, ~~or~~ legal custodian, or person responsible for the supervision of the missing individual who submits a missing person report to a law-enforcement agency or to the Center, shall immediately notify the law-enforcement agency and the Center of any individual whose location has been determined. The Center shall confirm the deletion of the individual's records from the FBI/NCIC's missing person file, as long as there are no grounds for criminal prosecution, and follow up with the local law-enforcement agency having jurisdiction of the records."

SECTION 4. G.S. 143B-499.5 reads as rewritten:

"§ **143B-499.5. Provision of toll-free service; instructions to callers; communication with law-enforcement agencies.**

The Center shall provide a toll-free telephone line for anyone to report the disappearance of any individual or the sighting of any missing child or missing person. The Center personnel shall instruct the caller, in the case of a report concerning the disappearance of an individual, of the requirements contained in G.S. 143B-499~~143B-499.3~~ of first having to submit a missing person report on the individual to the law-enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing. Any law-enforcement agency

may retrieve information imparted to the Center by means of this phone line. The Center shall directly communicate any report of a sighting of a missing person or a missing child to the law-enforcement agency having jurisdiction in the area of disappearance or sighting."

SECTION 5. Part 5A of Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-499.8. North Carolina Silver Alert System established.**

(a) There is established within the North Carolina Center for Missing Persons the Silver Alert System. The purpose of the Silver Alert System is to provide a statewide system for the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or other cognitive impairment.

(b) If the Center receives a report that involves a missing person who is believed to be suffering from dementia or other cognitive impairment, for the protection of the missing person from potential abuse or other physical harm, neglect, or exploitation, the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing person. The Center shall make every effort to disseminate the information as quickly as possible when the missing person is 18 years of age or older, and the person's status as missing has been reported to a law enforcement agency.

(c) The Center shall adopt guidelines and develop procedures for issuing an alert for missing persons believed to be suffering from dementia or other cognitive impairment and shall provide education and training to encourage radio and television broadcasters to participate in the alert. The guidelines and procedures shall ensure that specific health information about the missing person is not made public through the alert or otherwise.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the missing adult meeting the criteria of this section when information is available that would enable motorists to assist in the recovery of the missing person. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign."

SECTION 6. G.S. 74C-3(b) reads as rewritten:

"(b) "Private protective services" shall not mean any of the following:

(1) Licensed insurance adjusters legally employed as such and who engage in no other investigative activities unconnected with adjustment or claims against an insurance ~~company;~~ company.

(2) An officer or employee of the United States, this State, or any political subdivision of either while such officer or employee is engaged in the performance of his official duties within the course and scope of his employment with the United States, this State, or any political subdivision of ~~either;~~ either.

(3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating or credit worthiness of persons; and a person who provides consumer reports in connection with:

a. Credit transactions involving the consumer on whom the information is to be furnished and involving the extensions of credit to the consumer,

b. Information for employment purposes,

c. Information for the underwriting of insurance involving the consumer,

d. Information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility, or

e. A legitimate business need for the information in connection with a business transaction involving the ~~consumer;~~ consumer.

(4) An attorney at law licensed to practice in North Carolina while engaged in such practice and his agent, provided said agent is performing duties only in connection with his principal's practice of ~~law;~~ law.

(5) The legal owner or lien holder, and his agents and employees, of personal property which has been sold in a transaction wherein a security interest in personal property has been created to secure the sales transaction, who engage in repossession of said personal ~~property;~~ property.

(6) Repealed by Session Laws 1989, c. 759, s. 3.

(7) Repealed by Session Laws 1981, c. 807, s. 1.

(8) Employees of a licensee who are employed exclusively as undercover agents; provided that for purposes of this section, undercover agent means an individual hired by another person, firm, association, or corporation to perform a job for that person, firm, association, or corporation and, while performing such job, to act as an undercover operative, employee, or independent contractor of a licensee, but under the supervision of a ~~licensee;~~ licensee.

(9) A person who is engaged in an alarm systems business subject to the provisions of Chapter 74D of the General ~~Statutes;~~ Statutes.

(10) A person who obtains or verifies information regarding applicants for employment, with the knowledge and consent of the applicant, and is (i) engaged in business as a private personnel service as defined in G.S. 95-47.1 or engaged in business as a private employer fee pay personnel service, (ii) engaged in the business of obtaining or verifying information regarding applicants for employment, or (iii) an employer with whom the applicant has applied for ~~employment;~~ employment.

(11) A person who conducts efficiency studies. An efficiency study is an analysis of an employer's business, made at the request of the employer, to determine one or more of the following:

a. The most efficient procedures by which an employee of the business can perform the employee's assigned duties.

b. The adequacy of an employee's performance of the employee's assigned duties that require interaction with a client or customer of the business.

If a person making an efficiency study observes an instance of theft or another illegal act committed by an employee of the business, the person may report the instance to the employer without violating G.S. 74C-3(a)(8).

(12) Research laboratories and consultants who analyze, test, or in any way apply their expertise to interpreting, evaluating, or analyzing facts or

evidence submitted by another in order to determine the cause or effect of physical or psychological occurrences, and give their opinions and findings to the requesting source or to a designee of the ~~requestor;~~ requestor.

(13) A person who works regularly and exclusively as an employee of an employer in connection with the business affairs of that employer. If the employee is an armed security guard and wears, carries, or possesses a firearm in the performance of his duties, the provisions of G.S. 74C-13 ~~apply;~~ apply.

(14) An employee of a security department of a private business that conducts investigations exclusively on matters internal to the business affairs of the ~~business; or~~ business.

(15) Representatives of nonprofit organizations funded all or in part by business improvement districts who provide information and directions to local tourists and residents, engage in street cleaning and beautification services within the business improvement districts, and notify local law enforcement of any illegal activity observed by the representatives within the business improvement districts.

(16) Emergency medical services personnel credentialed under Article 7 of Chapter 131E of the General Statutes who engage in search and rescue activities at the request of either the State, a political subdivision of the State, or one of the following types of facilities: an adult care home licensed under Chapter 131D of the General Statutes, a health care facility or agency licensed under Chapter 131E of the General Statutes, or a facility licensed to offer mental health, developmental disabilities, or substance abuse services under Chapter 122C of the General Statutes. For the purposes of this subdivision, 'search and rescue' means activities and documents relating to efforts to locate an individual following the individual's disappearance. This exemption shall not apply if the emergency medical services provider provides services beyond emergency search and rescue and said activities meet the definition of private protective services as defined in G.S. 74C-3."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 3:31 a.m. on the 29th day of August, 2007.

Session Law 2007-470 **House Bill 1652**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE AN E-911 TELECOMMUNICATOR SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4 is amended by adding a new subdivision to read:

"(40a) E-911 Telecommunicator. – Issuable to an active E-911 Telecommunicator. An active E-911 Telecommunicator is an individual employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency

and nonemergency calls for police, fire, emergency medical, and other public safety services via telephone and other communication devices. The plate shall bear the phrase "E-911 Telecommunicator." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:33 a.m. on the 29th day of August, 2007.

Session Law 2007-471 **House Bill 1688**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO CREATE A LIMITED REGISTRATION PLATE, TO EXEMPT MOTOR VEHICLES REGISTERED UNDER THE INTERNATIONAL REGISTRATION PLAN FROM THE COMBINED REGISTRATION AND PROPERTY TAX SYSTEM, TO PROVIDE THAT INTEREST GENERATED BY FUNDS IN THE COMBINED MOTOR VEHICLE AND REGISTRATION ACCOUNT BE CREDITED TO THE ACCOUNT, TO AUTHORIZE THE OFFICE OF STATE BUDGET AND MANAGEMENT TO DIRECT THE TREASURER TO DISTRIBUTE THE FUNDS IN THE ACCOUNT TO IMPLEMENT THE INTEGRATED COMPUTER SYSTEM, TO DISTRIBUTE ANY REMAINING FUNDS IN THE ACCOUNT TO THE LOCAL GOVERNMENTS, AND TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE COMBINED MOTOR VEHICLE REGISTRATION RENEWAL AND PROPERTY TAX COLLECTION SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.1 reads as rewritten:

"§ **20-79.1. Use of temporary registration plates or markers by purchasers of motor vehicles in lieu of dealers' plates.**

(a) The Division may, subject to the limitations and conditions hereinafter set forth, deliver temporary registration plates or markers designed by said Division to a dealer duly registered under the provisions of this Article who applies for at least 25 such plates or markers and who encloses with such application a fee of one dollar ($1.00) for each plate or marker for which application is made. Such application shall be made upon a form prescribed and furnished by the Division. Dealers, subject to the limitations and conditions hereinafter set forth, may issue such temporary registration plates or markers to owners of vehicles, provided that such owners shall comply with the pertinent provisions of this section.

(b) Every dealer who has made application for temporary registration plates or markers shall maintain in permanent form a record of all temporary registration plates or markers delivered to him, and shall also maintain in permanent form a record of all temporary registration plates or markers issued by him, and in addition thereto, shall maintain in permanent form a record of any other information pertaining to the receipt or the issuance of temporary registration plates or markers that the Division may require. Each record shall be kept for a period of at least one year from the date of entry of such record. Every dealer shall allow full and free access to such records during

regular business hours, to duly authorized representatives of the Division and to peace officers.

(c) Every dealer who issues temporary registration plates or markers shall also issue a temporary registration certificate upon a form furnished by the Division and deliver it with the registration plate or marker to the owner.

(d) A dealer shall:

(1) Not issue, assign, transfer, or deliver temporary registration plates or markers to anyone other than a bona fide purchaser or owner of a vehicle which he has sold.

(2) Not issue a temporary registration plate or marker without first obtaining from the purchaser or owner a written application for titling and registration of the vehicle and the applicable fees.

(3) Within 10 working days, mail or deliver the application and fees to the Division or deliver the application and fees to a local license agency for processing. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract.

(4) Not deliver a temporary registration plate to anyone purchasing a vehicle that has an unexpired registration plate that is to be transferred to the purchaser.

(5) Not lend to anyone, or use on any vehicle that he may own, any temporary registration plates or markers.

A dealer may issue temporary markers, without obtaining the written application for titling and registration or collecting the applicable fees, to nonresidents for the purpose of removing the vehicle from the State.

(e) Every dealer who issues temporary plates or markers shall write clearly and indelibly on the face of the temporary registration plate or marker:

(1) The dates of issuance and expiration;

(2) The make, motor number, and serial numbers of the vehicle; and

(3) Any other information that the Division may require.

It shall be unlawful for any person to issue a temporary registration plate or marker containing any misstatement of fact or to knowingly write any false information on the face of the plate or marker.

(f) If the Division finds that the provisions of this section or the directions of the Division are not being complied with by the dealer, ~~he~~ the Division may suspend, after a hearing, the right of a dealer to issue temporary registration plates or markers. Nothing in this section shall be deemed to require a dealer to collect or receive property taxes from any person.

(g) Every person to whom temporary registration plates or markers have been issued shall permanently destroy such temporary registration plates or markers immediately upon receiving the limited registration plates or the annual registration plates from the Division: Provided, that if the limited registration plates or the annual registration plates are not received within 30 days of the issuance of the temporary registration plates or markers, the owner shall, notwithstanding, immediately upon the expiration of such 30-day period, permanently destroy the temporary registration plates or markers.

(h) Temporary registration plates or markers shall expire and become void upon the receipt of the limited registration plates or the annual registration plates from the Division, or upon the rescission of a contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of issuance, depending upon whichever event shall

first occur. No refund or credit or fees paid by dealers to the Division for temporary registration plates or markers shall be allowed, except in the event that the Division discontinues the issuance of temporary registration plates or markers or unless the dealer discontinues business. In this event the unissued registration plates or markers with the unissued registration certificates shall be returned to the Division and the dealer may petition for a refund. Upon the expiration of the 30 days from the date of issuance, a second 30-day temporary registration plate or marker may be issued by the dealer upon showing the vehicle has been sold, a temporary lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that the lien may be perfected.

(i) A temporary registration plate or marker may be used on the vehicle for which issued only and may not be transferred, loaned, or assigned to another. In the event a temporary registration plate or marker or temporary registration certificate is lost or stolen, the owner shall permanently destroy the remaining plate or marker or certificate and no operation of the vehicle for which the lost or stolen registration certificate, registration plate or marker has been issued shall be made on the highways until the regular license plate is received and attached thereto.

(j) The Commissioner of Motor Vehicles shall have the power to make such rules and regulations, not inconsistent herewith, as he shall deem necessary for the purpose of carrying out the provisions of this section.

(k) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 shall apply in like manner to temporary registration plates or markers as is applicable to nontemporary plates."

SECTION 2. Part 5 of Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ **20-79.1A. Use of limited registration plates on motor vehicles.**

(a) The Division or its authorized agent shall issue a limited registration plate upon receipt of an application for title and registration fees from a dealer, who is authorized to issue temporary registration plates or markers to owners of vehicles pursuant to G.S. 20-79.1, or from any other person. The limited registration plate must be clearly and visibly designated as "temporary" and shall expire on the last day of the second month following the date of application of the limited registration plate.

(b) Notwithstanding subsection (a) of this section, the Division or its authorized agent shall issue an annual registration plate upon receipt of an application for title, registration fees, and property taxes from the dealer or any other person."

SECTION 3. G.S. 105-330.4(a), as amended by Section 3 of S.L. 2005-294, reads as rewritten:

"§ **105-330.4. Due date, interest, and enforcement remedies.**

(a) **(Effective until July 1, 2010)** Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be due each year on the following dates:

(1) For a vehicle registered under the staggered system, taxes shall be due on the first day of the fourth month following the date the registration expires or on the first day of the fourth month following the last day of the month in which the new registration is applied for.

(2) For a vehicle newly registered under the annual system, taxes shall be due on the first day of the fourth month following the date the new registration is applied for. For a vehicle whose registration is renewed

under the annual system, taxes shall be due on May 1 following the date the registration expired.

(a) **(Effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first)** Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) are due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) are due each year on the date a new registration is applied for or the fifteenth day of the month following the month in which the registration renewal sticker expired pursuant to G.S. 20-66(g).

(a1) Notwithstanding subsection (a) of this section, taxes on a classified motor vehicle for which the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, are due on the last day of the second month following the date on which the limited registration is applied for."

SECTION 4. G.S. 105-330.5, as amended by Section 6 of S.L. 2005-294, is amended by adding a new subsection to read:

"(a2) For classified motor vehicles where the registration fees have been paid pursuant to G.S. 20-79.1 or subsection (a) of G.S. 20-79.1A, the Property Tax Division's notice shall contain a statement that registration fees have been paid pursuant to G.S. 20-79.1 or G.S. 20-79.1A and that the registration becomes valid for the remainder of the year upon payment of county and municipal taxes and fees due in the current year."

SECTION 5. G.S. 105-330.5(b), as amended by Section 6 of S.L. 2005-294, reads as rewritten:

"(b) When the combined tax and registration notice required by subsection (a) or (a2) of this section is prepared, the Property Tax Division of the Department of Revenue or a third-party contractor shall mail a copy of the notice, with appropriate instructions for payment, to the motor vehicle owner. The Department shall establish a fee equal to the actual cost of printing and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may retain a fee for collecting these taxes and fees. The fee retained by the collecting authority shall be an amount equal to at least one-third of the compensation paid for registration renewals conducted by contract agents under G.S. 20-63(h). The Property Tax Division shall establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month. Each collecting authority shall provide a weekly financial report containing information required by the Property Tax Division to the taxing units and Division of Motor Vehicles to enable them to account for payments received."

SECTION 6. G.S. 105-330.1(b) reads as rewritten:

"(b) Exceptions. – The following motor vehicles are not classified under subsection (a) of this section:

(1) Motor vehicles exempt from registration pursuant to G.S. 20-51.

(2) Manufactured homes, mobile classrooms, and mobile offices.

(3) Semitrailers or trailers registered on a multiyear basis.

(4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.

(5) Repealed by Session Laws 2000, c. 140, s. 75(a). (1991, c. 624, s. 1; 1991 (Reg. Sess., 1992), c. 961, s. 3; 1993, c. 485, s. 18; c. 543, s. 4; 1993 (Reg. Sess., 1994), c. 745, s. 1; 2000-140, s. 75(a).)

(6) Motor vehicles registered under the International Registration Plan."

SECTION 7.(a) G.S. 105-330.10 reads as rewritten:

"§ **105-330.10. (Effective until July 1, 2010) Disposition of interest.**

Sixty percent (60%) of the first month's interest collected on unpaid taxes pursuant to G.S. 105-330.4 shall be transferred on a monthly basis to the Combined Motor Vehicle and Registration Account created within the Treasurer's Office. Interest generated by the funds in the Combined Motor Vehicle and Registration Account shall be credited to the Account. ~~The North Carolina Association of County Commissioners~~The Office of State Budget and Management shall direct the Treasurer to distribute the funds in the Account to the Division of Motor Vehicles for the purpose of developing and implementing an integrated computer system within the Division of Motor Vehicles that would allow for the combined assessment, billing, and collection of property taxes on motor vehicles and the issuance of registration plates. Funds in the Account shall not be transferred by the Office of State Budget and Management and appropriated by the General Assembly until the Department of Transportation and the North Carolina Association of County Commissioners reach agreement on a project plan for the integrated system. The Treasurer shall report to the Revenue Laws Study Committee semiannually with the first report due by April 30, 2006. The report shall contain a detailed description of the amount of moneys transferred to the Account and distributed from the Account. Any funds remaining in the Account after the integrated computer system has been certified to be in operation shall be distributed to the local governments on a pro rata basis determined by the first month's interest collected on the unpaid taxes on classified motor vehicles and paid into the Account by each local government."

SECTION 7.(b) This section is effective when it becomes law.

SECTION 8. Unless otherwise stated, this act becomes effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:35 a.m. on the 29th day of August, 2007.

Session Law 2007-472 **House Bill 1650**

AN ACT TO INCREASE MEMBERSHIP ON THE ACUPUNCTURE LICENSING BOARD FROM SIX TO NINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-453(a) reads as rewritten:

"(a) Membership. – The Acupuncture Licensing Board shall consist of ~~six~~ nine members, ~~two~~ three appointed by the Governor and ~~four~~ six by the General Assembly. The ~~four~~ six members appointed by the General Assembly shall be licensed to practice

acupuncture in this State and shall not be licensed physicians under Article 1 of this Chapter. The persons initially appointed to those positions by the General Assembly need not be licensed at the time of selection but shall have met the qualifications under G.S. 90-455(a)(4) and (5). Of the Governor's ~~two~~ three appointments, one shall be a layperson who is not employed in a health care profession; ~~the other~~one shall be a physician licensed under Article 1 of this Chapter who has successfully completed 200 hours of Category I American Medical Association credit in medical acupuncture training as recommended by the American Academy of Medical ~~Acupuncture.~~Acupuncture; and one shall be licensed to practice acupuncture in this State. Of the members to be appointed by the General Assembly, ~~two~~ three shall be appointed upon the recommendation of the Speaker of the House of Representatives, and ~~two~~ three shall be appointed upon the recommendation of the President Pro Tempore of the Senate. The members appointed by the General Assembly must be appointed in accordance with G.S. 120-121.

Members serve at the pleasure of the appointing authority. Vacancies shall be filled by the original appointing authority and the term shall be for the balance of the unexpired term. A vacancy by a member appointed by the General Assembly must be filled in accordance with G.S. 120-122."

SECTION 2. Notwithstanding the provisions of G.S. 90-453(a), as enacted in Section 1 of this act, the member appointed by the Governor who shall be licensed to practice acupuncture in this State and the two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate, shall each serve a three-year term commencing July 1, 2007, and ending June 30, 2010. Members described in this section shall serve for the terms for which they were appointed and until their successors are appointed and qualified.

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 3:37 a.m. on the 29th day of August, 2007.

Session Law 2007-473 **House Bill 1685**

AN ACT TO AMEND THE CERTIFICATE OF NEED REQUIREMENTS TO ALLOW FOR AN EXPEDITED REVIEW PROCESS FOR AN ADULT CARE HOME OR A NURSING HOME TO RELOCATE WITHIN THE SAME COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Facility Services, shall develop an expedited certificate of need review process for a current holder of a certificate of need for an adult care home or a nursing home to relocate from one licensed facility or campus to another. This expedited certificate of need review process shall be available only to a facility that meets the following criteria:

(1) The facility currently holds a certificate of need for an adult care home or nursing home.

(2) The facility proposes to move from one licensed facility or campus to another licensed facility or campus.

(3) Both the current and the proposed facilities or campuses are located within the same county.

(4) The relocation of the adult care home or nursing home would not result in an increase in the total number of adult care home beds or nursing home beds for that facility or campus.

SECTION 2. The Department of Health and Human Services, Division of Health Service Regulation, shall implement the expedited certificate of need review process no later than October 1, 2007. The Department shall determine the minimum review criteria needed to determine the need for a relocation of a facility under the circumstances required under Section 1 of this act and report to the General Assembly on or before May 1, 2008.

SECTION 3. This act is effective when it becomes law and applies to certificate of need applications for the relocation of adult care homes and adult care home beds or nursing homes and nursing home beds within the same county filed on or after the date of implementation of the expedited review process by the Department of Health and Human Services, Division of Health Service Regulation.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 3:38 a.m. on the 29th day of August, 2007.

Session Law 2007-474 **House Bill 1707**

AN ACT TO ALLOW DETENTION OFFICERS EMPLOYED BY THE SHERIFF TO CARRY FIREARMS AT THE COUNTY COURTHOUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-269.4 reads as rewritten:

"§ **14-269.4. Weapons on State property and in courthouses.**

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to:

(1) Repealed by S.L. 1997-238, s. 3.

(1a) A person exempted by the provisions of G.S. 14-269(b),

(2) through (4) Repealed by S.L. 1997-238, s. 3.

(4a) Any person in a building housing a court of the General Court of Justice in possession of a weapon for evidentiary purposes, to deliver it to a law-enforcement agency, or for purposes of registration,

(4b) Firearms in a courthouse, carried by detention officers employed by and authorized by the sheriff to carry firearms.

(5) State-owned rest areas, rest stops along the highways, and State-owned hunting and fishing reservations.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

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

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 2:19 p.m. on the 29th day of August, 2007.

Session Law 2007-475 **House Bill 1718**

AN ACT AUTHORIZING CERTAIN CITIES TO ENACT FAIR HOUSING ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 21 of Chapter 160A of the General Statutes is amended by adding the following new section to read:

"**§ 160A-499.2. Fair housing ordinance.**

(a) A municipality shall have the power to adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, handicap, familial status, or national origin in real estate transactions. The ordinances may regulate or prohibit any act, practice, activity, or procedure related, directly or indirectly, to the sale or rental of public or private housing, which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a criminal offense; may subject the offender to civil penalties; and may provide that the municipality may enforce the ordinances by application to the Superior Court Division of the General Court of Justice for appropriate legal and equitable remedies, including mandatory and prohibitory injunctions and orders of abatement, attorneys' fees, and punitive damages, and the court shall have jurisdiction to grant the remedies.

(b) A municipality also shall have the power to amend any ordinance adopted pursuant to the provisions contained in subsection (a) of this section to ensure that the ordinance remains substantially equivalent to the federal Fair Housing Act (41 U.S.C. §§ 3601, et seq.). Any ordinance enacted pursuant to this section prohibiting discrimination on the basis of familial status shall not apply to housing for older persons, as defined in the federal Fair Housing Act (41 U.S.C. §§ 3601, et seq.).

(c) Any ordinance enacted pursuant to this section may provide for exemption from its coverage:

(1) The rental of a housing accommodation in a building containing accommodations for not more than four families living independently of each other if the lessor or a member of his family resides in one of those accommodations.

(2) The rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there.

(3) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property.

(4) With respect to discrimination based on religion to housing accommodations owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled

by or in conjunction with a religious organization, association, or society, the sale, rental, or occupancy of the housing accommodation being limited or preference being given to persons of the same religion, unless membership in the religion is restricted because of race, color, national origin, or sex.

(5) Any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of the ordinance.

(d) A municipality may create or designate a committee to assume the duty and responsibility of enforcing ordinances adopted pursuant to this section. The committee may be granted any authority deemed necessary by the city council for the proper enforcement of any fair housing ordinance, including the power to:

(1) Promulgate rules for the receipt, initiation, investigation, and conciliation of complaints of violations of the ordinance.

(2) Require answers to interrogatories, the production of documents and things, and the entry upon land and premises in the possession of a party to a complaint alleging a violation of the ordinance; compel the attendance of witnesses at hearings; administer oaths; and examine witnesses under oath or affirmation.

(3) Apply to the Superior Court Division of the General Court of Justice, upon the failure of any person to respond to or comply with a lawful interrogatory, request for production of documents and things, request to enter upon land and premises, or subpoena, for an order requiring the person to respond or comply.

(4) Upon finding reasonable cause to believe that a violation of the ordinance has occurred, to petition the Superior Court Division of the General Court of Justice for appropriate civil relief on behalf of the aggrieved person or persons.

(e) A municipality may provide that neither complaints filed with any committee pursuant to the ordinance nor the results of the committee's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under the provisions of what is now Chapter 132 of the General Statutes.

(f) A municipality may provide that the statutory provisions relating to meetings of governmental bodies, presently embodied in Article 33C of Chapter 143 of the General Statutes, shall not apply to the activity of any committee authorized to enforce the ordinance to the extent that the committee is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to the ordinance."

SECTION 2. This act applies only to municipalities that have a permanent population of 90,000 or more according to the most recent decennial census and that are the location of a recurring special accommodation event requiring temporary accommodations for at least 50,000 people. For purposes of this act, the term "recurring special accommodation event" means a trade show or other event of less than 11 days' duration that has been held in the municipality at least once a year for at least 10 years.

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 2:29 p.m. on the 29th day of August, 2007.

Session Law 2007-476 **House Bill 177**

AN ACT AUTHORIZING COMMUNITY COLLEGE BOARDS TO SECURE LOANS UNDER THE ENERGY IMPROVEMENT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-20 reads as rewritten:

"§ **115D-20. Powers and duties of trustees.**

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

…

(10) To enter into guaranteed energy savings contracts pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(10a) To enter into loan agreements under the Energy Improvement Loan Program pursuant to Part 3 of Article 36 of Chapter 143 of the General Statutes.

(11) To enter into lease purchase and installment purchase contracts for equipment under G.S. 115D-58.15.

…."

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 2:34 p.m. on the 29th day of August, 2007.

Session Law 2007-477 **House Bill 63**

AN ACT TO EXCLUDE FROM PROPERTY TAX REAL AND PERSONAL PROPERTY THAT IS SUBJECT TO A CAPITAL LEASE WITH A LOCAL SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275 is amended by adding a new subdivision to read:

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

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

…

(43) Real or tangible personal property that is subject to a capital lease pursuant to G.S. 115C-531."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 2:41 p.m. on the 29th day of August, 2007.

Session Law 2007-478 **House Bill 1308**

AN ACT TO PROVIDE FOR LIFETIME CERTIFICATION FOR TEACHERS AFTER FIFTY YEARS OF TEACHING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296(b) reads as rewritten:

"(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several certification requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The certification program shall provide for initial certification after completion of preservice training, continuing certification after three years of teaching experience, and certificate renewal every five years thereafter, until the retirement of the teacher. The last certificate renewal received prior to retirement shall remain in effect for five years after retirement. The certification program shall also provide for lifetime certification after 50 years of teaching.

The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing certification. The new requirements shall reflect more rigorous standards for continuing certification and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher certificates. The State Board shall consider modifications in the certificate renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher certificates by May 15, 1998.

The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. The State Board of Education shall

incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board."

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

In the General Assembly read three times and ratified this the 30th day of July, 2007.

Became law upon approval of the Governor at 3:00 p.m. on the 29th day of August, 2007.

Session Law 2007-479 **House Bill 1322**

AN ACT PROVIDING LOCAL FIRE CHIEFS, COUNTY FIRE MARSHALS, AND LOCAL EMERGENCY SERVICES DIRECTORS WITH THE AUTHORITY TO REQUEST CRIMINAL HISTORIES FROM THE DEPARTMENT OF JUSTICE FOR APPLICANTS TO FIRE DEPARTMENTS AND EMERGENCY MEDICAL SERVICES IN UNITS OF LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 114-19.12 reads as rewritten:

"§ **114-19.12. Criminal history record checks of applicants to fire ~~departments.~~departments and emergency medical services.**

(a) Definitions. – ~~As used in this section, the term:~~The following definitions apply in this section:

(1) ~~"Applicant" means an applicant~~Applicant. – A person who applies for a paid or volunteer position with a fire department ~~in a unit of local government.~~or an emergency medical service.

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

Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by a designated local Homeland Security director ~~or,~~a local fire chief, a county fire marshal, or an emergency services director or, when there is no designated local Homeland Security ~~director,~~director, local fire chief, county fire marshal, or emergency services director, by a local law enforcement agency, the North Carolina Department of Justice may provide to the requesting ~~director~~ director, chief, marshal, director, or agency an applicant's criminal history from the State and National Repositories of Criminal Histories. The local Homeland Security ~~director~~ director, local fire chief, marshal, director, or local law enforcement agency shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, any additional information required by the Department of Justice, and a form signed by the applicant to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of Criminal Information. All of the information the local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency receives through the checking of the criminal history is privileged information and for the exclusive use of that ~~director~~ director, chief, marshal, or agency.

(d) If the applicant's verified criminal history record check reveals one or more convictions covered under subdivision (a)(2) of this section, then the conviction shall constitute just cause for not selecting the applicant for the position or for dismissing the person from a current position with the local fire ~~department.~~department or emergency medical services. The conviction shall not automatically prohibit volunteering or employment; however, the following factors shall be considered by the local Homeland Security ~~director~~ director, local fire chief, county fire marshal, emergency services

director, or local law enforcement agency in determining whether the position shall be denied:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and the duties of the person;
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The local fire ~~department~~ department or emergency medical services may deny the applicant the position or dismiss an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. This refusal constitutes just cause for the denial of the position or the dismissal from the position.

(f) The local fire ~~department~~ department or emergency medical services may extend a conditional offer of the position pending the results of a criminal history record check authorized by this section.

(g) For purposes of this section, 'local fire chief' shall include only fire chiefs who are paid employees of a city; 'county fire marshal' shall include only fire marshals who are paid employees of a county; and 'emergency services director' shall include only emergency services directors who are paid employees of a city or county."

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

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 3:00 p.m. on the 29th day of August, 2007.

Session Law 2007-480 **House Bill 1738**

AN ACT TO ESTABLISH THE ADVISORY COMMISSION ON HOSPITAL INFECTION CONTROL AND DISCLOSURE.

Whereas, the Centers for Disease Control and Prevention (CDC) reports that approximately 2,000,000 people annually become ill from hospital-acquired infections, called nosocomial infections, and about 90,000 people die each year from hospital-acquired infections; and

Whereas, the CDC reports that hospital-acquired infections add at least $5,000,000,000 annually to the nation's health care bill; and

Whereas, a Pennsylvania report on hospital-acquired infections found that 76% of the cost for treating infections in that state was billed to public health insurance; and

Whereas, the CDC reports that despite the risks associated with nosocomial infections, information on nosocomial infection rates is hard to obtain, even though basic data is compiled as hospitals monitor infections, particularly in intensive care units and following surgery; and

Whereas, the CDC estimates, based on voluntary reporting, that hospital-acquired infections have become America's leading cause of death from infectious disease; and

Whereas, it is the intent of the General Assembly to enact a law requiring public disclosure of hospital-acquired infection incidence rates to become effective in 2010; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is established the Advisory Commission on Hospital Infection Control and Disclosure (Advisory Commission). The purpose of the Advisory Commission is to prepare State agencies, hospitals, and the public for the reporting and public disclosure of hospital-acquired infection incidence rates as may be required by law for specific clinical procedures under the following categories:

(1) Class I surgical site infections.
(2) Ventilator-associated pneumonia.
(3) Central line-related bloodstream infections.

SECTION 1.(b) The Advisory Commission shall consist of 13 members appointed as follows:

(1) Four shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as follows:
    a. One member who is a hospital infection control professional, as recommended by the North Carolina Hospital Association;
    b. One physician who is a member of the Society for Health Care Epidemiology, as recommended by the Society for Health Care Epidemiology;
    c. The Director of the Statewide Program for Infection Control and Epidemiology at the School of Medicine of the University of North Carolina at Chapel Hill; and
    d. One who is a member of the general public but who is neither a health care professional nor affiliated with a health care facility.
(2) Four shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as follows:
    a. One physician who is a member of the Society for Health Care Epidemiology, as recommended by the Society for Health Care Epidemiology;
    b. One member who is a hospital infection control professional, as recommended by the North Carolina Hospital Association;
    c. The Director of the Duke Inspection Control Network, or the Director's designee; and
    d. One who is a member of the general public but who is neither a health care professional nor affiliated with a health care facility.
(3) Five shall be appointed by the Governor, as follows:
    a. A representative of the North Carolina Institute of Medicine, as recommended by the North Carolina Institute of Medicine;
    b. The Director of the NC Center for Hospital Quality and Patient Safety;

c. The Director of the Consumer Protection Division of the Office of the NC Attorney General;
d. The State Health Director; and
e. The State Epidemiologist.

The Governor shall appoint the Chair of the Advisory Committee.

SECTION 1.(c) Subject to the approval of the Legislative Services Commission, the Advisory Commission may meet in the State Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist in the work of the Advisory Commission. The Directors of Legislative Assistants for the House of Representatives and the Senate shall assign clerical staff to the Advisory Commission, and the expenses relating to the clerical employees shall be borne by the Advisory Commission. The Advisory Commission, while in the discharge of its official duties, may exercise all the powers provided under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet during a regular or extra session of the General Assembly, subject to the approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 138-5 or G.S. 138-6, as applicable.

SECTION 2.(a) The Advisory Commission shall be meaningfully involved in the development of all aspects of the methodology used for collecting, analyzing, and disclosing publicly the information on hospital-acquired infection incidence rates, including collection methods, formatting, and methods and means for release and dissemination.

SECTION 2.(b) The Advisory Commission shall develop a process to ensure that information and data on hospital-acquired infection incidence rates available for dissemination to the general public shall not be made available in any form unless the information and data have been reviewed, adjusted, and validated according to the following process:

(1) The entire methodology for collecting and analyzing the data shall be disclosed to all relevant organizations and to all hospitals and ambulatory surgical facilities that are the subject of any information to be made available to the public before any public disclosure of the information or data.
(2) Data collection and analytical methodologies shall be used that meet accepted standards of validity and reliability before any information is made available to the public.
(3) Comparisons among hospitals and freestanding ambulatory surgical facilities shall adjust for patient case mix and other relevant risk factors and control for provider peer groups, when appropriate.
(4) The limitations of the data sources and analytical methodologies used to develop comparative hospital and freestanding ambulatory surgical facility information shall be clearly identified and acknowledged, including the appropriate and inappropriate uses of the data.
(5) To the greatest extent possible, comparative hospital and freestanding ambulatory surgical facility information initiatives shall use standard-based norms derived from widely accepted provider-developed practice guidelines.

(6) Comparative hospital and freestanding ambulatory surgical facility information and other information that the statewide data processor or Department has compiled regarding the hospital or freestanding ambulatory surgical facility shall be shared with the hospital or freestanding ambulatory surgical facility under review prior to public dissemination of the information, and the hospital or freestanding ambulatory surgical facility shall have 30 days to make corrections and to add helpful explanatory comments about the information before the publication.

(7) Safeguards shall be implemented to:

a. Protect against the unauthorized use or disclosure of hospital and freestanding ambulatory surgical facility information; and

b. Protect against the dissemination of inconsistent, incomplete, invalid, inaccurate, or subjective hospital or freestanding ambulatory surgical facility data.

(8) A process to ensure the quality and accuracy of information reported by a hospital or freestanding ambulatory surgical facility under this section and its data collection, analysis, and dissemination methodologies are evaluated regularly.

(9) A process to ensure that only the most basic identifying information from submitted reports are used, and except as otherwise authorized by Article 11A of Chapter 131E of the General Statutes, information identifying a patient, employee, or licensed professional shall not be released.

SECTION 2.(c) The Advisory Commission shall establish standardized criteria and methods for data submitted to the statewide data processor under G.S. 131E-214.2.

SECTION 3.(a) The Advisory Commission shall submit an interim report on its activities to the General Assembly on or before May 1, 2008. The Advisory Commission shall submit its final report to the 2009 General Assembly upon its convening with recommendations and proposed legislation for requiring hospital-acquired infection incidence rates public disclosure. Upon submission of its final report, the Commission shall terminate.

SECTION 3.(b) It is the intent of the General Assembly to enact legislation before adjournment sine die of the 2009 General Assembly requiring hospitals to report and publicly disclose hospital-acquired infection incidence rates.

SECTION 4. The Legislative Services Officer shall allocate funds appropriated to the General Assembly for this purpose to implement this act.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 3:04 p.m. on the 29th day of August, 2007.

Session Law 2007-481 **Senate Bill 1147**

AN ACT TO REQUIRE A COPY OF THE REGISTRATION CARD ISSUED FOR A DEALER REGISTRATION PLATE BE IN THE VEHICLE, TO MODIFY RETENTION AND INSPECTION PROCEDURES FOR DEALER RECORDS, TO

CLARIFY WHEN A VEHICLE MUST BE INSPECTED, AND TO CLARIFY MOTOR VEHICLE REGISTRATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79(d) reads as rewritten:

"(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

(1) Is part of the inventory of the dealer.

(2) Is not consigned to the dealer.

(3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.

(4) Is not used by the dealer in another business in which the dealer is engaged.

(5) Is driven on a highway by a person ~~who carries a copy of the registration card for the dealer plates issued to the dealer while driving the motor vehicle and~~ who meets one of the following descriptions:

a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.

b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.

c. Is an employee of the dealer and is driving the vehicle in the course of employment.

(6) A copy of the registration card for the dealer plate issued to the dealer is carried by the person operating the motor vehicle or, if the person is operating the motor vehicle in this State, the registration card is maintained on file at the dealer's address listed on the registration card, and the registration card must be able to be produced within 24 hours upon request of any law enforcement officer.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection."

SECTION 2. G.S. 20-183.4C is amended by adding a new subdivision to read:

"(1a) A new motor vehicle dealer who is also licensed pursuant to this Article may, notwithstanding subdivision (1) of this section, examine the safety and emissions control devices on a new motor vehicle and perform such services necessary to ensure the motor vehicle conforms to the required specifications established by the manufacturer and contained in its predelivery check list. The completion of the predelivery inspection procedure required or recommended by the manufacturer on a new motor vehicle shall constitute the inspection required by subdivision (1) of this section. For the purposes of this subdivision, the date of inspection shall be deemed to be the date of the sale of the motor vehicle to a purchaser."

SECTION 3. G.S. 20-297(a) reads as rewritten:

"(a) Vehicles. – A dealer must keep a record of all vehicles received by the dealer and all vehicles sold by the dealer. The records must contain the information that the Division requires. A dealer may keep and maintain records at the dealership facility where the vehicles were sold or at another established office located within this State provided that the location and the name of a designated contact agent are provided to the Division and the records can be made available for inspection by the Division within a reasonable period of time after being requested by the Division."

SECTION 4. Section 2 of Session Law 2007-209 is repealed.

SECTION 5. G.S. 20-52 reads as rewritten:

"(a) An owner of a vehicle subject to registration must apply to the Division for a certificate of title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application ~~form~~ provided by the Division. The application ~~form~~ must request all of the following information and may request other information the Division considers necessary:

(1) The owner's name.

(1a) If the owner is an individual, the following information:

a. The owner's mailing address and residence address.

b. ~~The owner's social security number.~~One of the following at the option of the applicant:

1. The owner's North Carolina drivers license number or North Carolina special identification card number.

2. The owner's home state drivers license number or home state special identification card number and valid active duty military identification card number or military dependent identification card number if the owner is a person or the spouse or dependent child of a person on active duty in the armed forces of the United States who is stationed in this State or deployed outside this State from a home base in this State. The owner's inability to provide a photocopy or reproduction of a military or military dependent identification card pursuant to any prohibition of the United States government or any agency thereof against the making of such photocopy or reproduction shall not operate to prevent the owner from making an application for registration and certificate of title pursuant to this subdivision.

3. The owner's home state drivers license number or home state special identification card number and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State.

4. The owner's home state drivers license number or home state special identification card number if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State and provides the address where the vehicle is or will be principally garaged. For purposes of this section, "principally garage" means the vehicle is garaged for six

or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle.

5. The owner's home state drivers license number or home state special identification card number, provided that the application is made pursuant to a court authorized sale or a sale authorized by G.S. 44A-4 for the purpose of issuing a title to be registered in another state or country.

6. The co-owner's home state drivers license number or home state special identification card number if at least one co-owner provides a North Carolina drivers license number or North Carolina special identification number.

7. The owner's home state drivers license number or special identification card number if the application is for a motor home or house car, as defined in G.S. 20-4.01(27)d2., or for a house trailer, as defined in G.S. 20-4.01(14).

(1b) If the owner is a firm, a partnership, a corporation, or another entity, the address of the entity.

(2) A description of the vehicle, including the following:

a. The make, model, type of body, and vehicle identification number of the vehicle.

b. Whether the vehicle is new or used and, if a new vehicle, the date the manufacturer or dealer sold the vehicle to the owner and the date the manufacturer or dealer delivered the vehicle to the owner.

(3) A statement of the owner's title and of all liens upon the vehicle, including the names and addresses of all lienholders in the order of their priority, and the date and nature of each lien.

~~The application form must contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579. In accordance with 42 U.S.C. 405(c)(2)(C)(v), the Division may disclose a social security number obtained under this subsection only for the purpose of administering the motor vehicle registration laws and may not disclose the social security number for any other purpose. The social security number of a person who applies to register a vehicle or of a person in whose name a vehicle is registered is therefore not a public record. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. 405(c)(2)(C)(vii).~~

(a1) An owner who would otherwise be capable of attaining a drivers license or special identification card from this State or any other state, except for a medical or physical condition that can be documented to, and verified by, the Division, shall be issued a registration plate and certificate of title if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State and provides the address where the vehicle is or will be principally garaged.

(b) When such application refers to a new vehicle purchased from a manufacturer or dealer, such application shall be accompanied with a manufacturer's certificate of origin that is properly assigned to the applicant. If the new vehicle is acquired from a dealer or person located in another jurisdiction other than a manufacturer, the

application shall be accompanied with such evidence of ownership as is required by the laws of that jurisdiction duly assigned by the disposer to the purchaser, or, if no such evidence of ownership be required by the laws of such other jurisdiction, a notarized bill of sale from the disposer."

SECTION 6. If House Bill 729 of the 2007 Regular Session becomes law, Section 6 of that act is repealed.

SECTION 7. If House Bill 729 of the 2007 Regular Session becomes law, G.S. 20-52(a), as amended by Section 5 of this act, reads as rewritten:

"(a) An owner of a vehicle subject to registration must apply to the Division for a certificate of title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application provided by the Division. The application must request all of the following information and may request other information the Division considers necessary:

(1) The owner's name.

(1a) If the owner is an individual, the following information:

a. The owner's mailing address and residence address.

b. One of the following at the option of the applicant:

1. The owner's North Carolina drivers license number or North Carolina special identification card number.

2. The owner's home state drivers license number or home state special identification card number and valid active duty military identification card number or military dependent identification card number if the owner is a person or the spouse or dependent child of a person on active duty in the armed forces of the United States who is stationed in this State or deployed outside this State from a home base in this State. The owner's inability to provide a photocopy or reproduction of a military or military dependent identification card pursuant to any prohibition of the United States government or any agency thereof against the making of such photocopy or reproduction shall not operate to prevent the owner from making an application for registration and certificate of title pursuant to this subdivision.

3. The owner's home state drivers license number or home state special identification card number and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State.

4. The owner's home state drivers license number or home state special identification card number if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State and provides the address where the vehicle is or will be principally garaged. For purposes of this section, "principally garage" means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle.

5. The owner's home state drivers license number or home state special identification card number, provided that the application is made pursuant to a court authorized sale or a sale authorized by G.S. 44A-4 for the purpose of issuing a title to be registered in another state or country.
6. The co-owner's home state drivers license number or home state special identification card number if at least one co-owner provides a North Carolina drivers license number or North Carolina special identification number.
7. The owner's home state drivers license number or special identification card number if the application is for a motor home or house car, as defined in G.S. 20-4.01(27)d2., or for a house trailer, as defined in G.S. 20-4.01(14).

(1b) If the owner is a firm, partnership, a corporation, or another entity, the address of the entity.

(2) A description of the vehicle, including the following:
a. The make, model, type of body, and vehicle identification number of the vehicle.
b. Whether the vehicle is new or used and, if a new vehicle, the date the manufacturer or dealer sold the vehicle to the owner and the date the manufacturer or dealer delivered the vehicle to the owner.

(3) A statement of the owner's title and of all liens upon the vehicle, including the names and addresses of all lienholders in the order of their priority, and the date and nature of each lien.

(4) A statement that the owner is an eligible risk for insurance coverage as defined in G.S. 58-37-1.

(5) For registration and certificate of title for a nonfleet private passenger motor vehicle, a statement that providing incorrect or false and misleading information as to the owner's status as an eligible risk can result in criminal prosecution and the denial of insurance coverage for any loss of the owner under any insurance policies for which application is made if the owner provides false and misleading information as to eligible risk status.

(6) For registration and certificate of title for a nonfleet private passenger motor vehicle, a statement that the owner will inform the insurer before the next policy renewal if the owner ceases to be an eligible risk."

SECTION 8. If House Bill 729 of the 2007 Regular Session becomes law, G.S. 58-37-1(4a), as enacted by Section 1 of that act, reads as rewritten:

"(4a) "Eligible risk," for the purpose of nonfleet private passenger motor vehicle insurance, means:
a. A resident of this State who owns a motor vehicle registered or principally garaged in this State;
b. A resident of this State and who has a valid driver's license issued by this State;

c. A person who is required to file proof of financial responsibility under Article 9A or 13 of Chapter 20 of the General Statutes in order to register his or her vehicle or to obtain a driver's license in this State;

d. A nonresident of this State who owns a motor vehicle registered and principally garaged in this State;

e. A nonresident of the State who is one of the following:

1. A member of the armed forces of the United States ~~armed forces~~ stationed in this ~~State~~ State, or deployed outside this State from a home base in this State, who intends to return to his or her home state;

2. The spouse of a nonresident member of the armed forces of the United States ~~armed forces~~ stationed in this ~~State~~ State, or deployed outside this State from a home base in this State, who intends to return to his or her home state;

3. An out-of-state student who intends to return to his or her home state upon completion of his or her time as a student enrolled in school in this State; or

f. The State and its agencies and cities, counties, towns, and municipal corporations in this State and their agencies.

However, no person shall be deemed an eligible risk if timely payment or premium is not tendered or if there is a valid unsatisfied judgment of record against the person for recovery of amounts due for motor vehicle insurance premiums and the person has not been discharged from paying the judgment or if the person does not furnish the information necessary to effect insurance."

SECTION 9. Section 5 of this act becomes effective September 15, 2007, and applies to applications for registration and certificate of title made on or after that date but shall not apply to any application that had been completed and notarized but not yet submitted to or processed by the Division prior to September 15, 2007. Sections 6, 7, and 8 of this act become effective January 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 12:18 p.m. on the 30th day of August, 2007.

Session Law 2007-482 **Senate Bill 1313**

AN ACT TO REQUIRE THE CONSENT OF THE COUNCIL OF STATE IN ORDER FOR ANY ZONING ORDINANCE TO APPLY TO STATE-OWNED BUILDINGS WITHIN SIX BLOCKS OF THE STATE CAPITOL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-345.5 reads as rewritten:

"§ **143-345.5. Program for location and construction of future public buildings.**

The Department of Administration is hereby authorized, empowered, and directed to formulate a long range building policy program and shall cooperate with the governing board of the City of Raleigh in zoning property adjacent to or in the vicinity of the

Capitol Square when and if the City of Raleigh desires to zone said property. If the Department of Administration is of opinion that property adjacent to or in the vicinity of the Capitol Square will, in the future, be needed for State building purposes, it shall so advise the governing body of the City of Raleigh. At such times as the governing body of the City of Raleigh shall rezone property adjacent to or within four blocks of the State Capitol, it shall request an opinion from the Department of Administration as to whether the Department finds a future need for such property for State building purposes. In the event that the governing board of the City of Raleigh is informed by the Department of Administration that any property herein covered be needed for building purposes by the State in the future, the governing body of the City of Raleigh shall give full consideration to such opinion of the Department before making any rezoning order. Notwithstanding any other provision of law, no local zoning ordinance shall apply to any State-owned building built or to be built on any State-owned land within six blocks of the State Capitol without the consent of the Council of State."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:20 p.m. on the 30th day of August, 2007.

Session Law 2007-483 **Senate Bill 103**

AN ACT TO ELIMINATE THE REQUIREMENT OF THREE HUNDRED APPLICATIONS BEFORE THE DIVISION OF MOTOR VEHICLES IS AUTHORIZED TO PRODUCE THE GOLD STAR SPECIAL PLATE AND TO ELIMINATE THE ADDITIONAL FEE FOR THE GOLD STAR SPECIAL PLATE; TO CHANGE THE RECIPIENT OF FUNDS FROM THE OMEGA PSI PHI SPECIAL PLATE FROM THE UNITED NEGRO COLLEGE FUND, INC., TO THE CAROLINA UPLIFT FOUNDATION, INC., TO BE USED FOR YOUTH ACTIVITY AND SCHOLARSHIP PROGRAMS; TO ELIMINATE THE ADDITIONAL FEE AMOUNT FOR THE BREAST CANCER AWARENESS PLATE; TO INCREASE THE ADDITIONAL FEE FOR THE NC COASTAL FEDERATION PLATE; TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE THE FOLLOWING NEW SPECIAL REGISTRATION PLATES: PROSTATE CANCER AWARENESS, JUVENILE DIABETES RESEARCH, BREAST CANCER EARLIER DETECTION, BRAIN INJURY AWARENESS, NC TENNIS FOUNDATION, ALS RESEARCH, NATIONAL KIDNEY FOUNDATION, AIDS AWARENESS, HOME CARE AND HOSPICE, AND HOSPICE CARE; TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ASSIGN A SPECIAL REGISTRATION PLATE FOR THE PRESIDENT OF THE NORTH CAROLINA COMMUNITY COLLEGES SYSTEM; AND TO MAKE TECHNICAL CORRECTIONS IN THE STATUTE CONCERNING ASSIGNMENTS OF SPECIAL REGISTRATION PLATES TO STATE GOVERNMENT OFFICIALS.

The General Assembly of North Carolina enacts:

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

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina,

which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) In God We Trust.
(7) Stock Car Racing Theme.
(8) Buddy Pelletier Surfing Foundation.
(9) Guilford Battleground Company.
(10) National Wild Turkey Federation.
(11) North Carolina Aquarium Society.
(12) First in Forestry.
(13) North Carolina Wildlife Habitat Foundation.
(14) NC Trout Unlimited.
(15) Ducks Unlimited.
(16) Lung Cancer Research.
(17) NC State Parks.
(18) Support Our Troops.
(19) US Equine Rescue League.
(20) Fox Hunting.
(21) Hospice Care.
(22) Home Care and Hospice.
(23) NC Tennis Foundation.
(24) AIDS Awareness."

SECTION 2. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

…

(2a) AIDS Awareness. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Find a Cure" beside the logo of a red ribbon on the left side of the plate.

…

(6a) ALS Research. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Nothing Less, Cure ALS" and the logo of the nonprofit group the ALS Association, Jim "Catfish" Hunter Chapter.

…

(14a) Brain Injury Awareness. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Brain Injury Awareness" and the logo of the nonprofit group Brain Injury Association of North Carolina, Inc.

…

(15a) Breast Cancer Earlier Detection. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Friends for An Earlier Breast Cancer Test."

…

(54) Gold Star Lapel Button. – Issuable to the recipient of the Gold Star lapel button. The plate shall bear the emblem of the Gold Star lapel button and the words "Gold Star". ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~

…

(58a) Hospice Care. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Hospice Care" and the letters "HC" on the right side of the plate.

(58b) Home Care and Hospice. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Home Care and Hospice" and the letters "HH" on the right side of the plate.

…

(61a) Juvenile Diabetes Research Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Juvenile Diabetes Research" and the "sneaker" logo of the nonprofit group Juvenile Diabetes Research Foundation International, Inc.

…

(78a) National Kidney Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase and logo selected by the Foundation.

…

(85a) NC Tennis Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Play Tennis" and the image of an implement of the tennis sport.

…

(100a) Prostate Cancer Awareness. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Prostate Cancer Awareness" and a representation of a blue ribbon. The Division must receive 300 or more applications for the plate before it may be developed.

…."

SECTION 3.(a) G.S. 20-79.5 reads as rewritten:

"§ **20-79.5. Special registration plates for elected and appointed State government officials.**

(a) Plates. – The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
Speaker of the House of Representatives	3
President Pro Tempore of the Senate	4
Secretary of State	5
State Auditor	6
State Treasurer	7
Superintendent of Public Instruction	8
Attorney General	9
Commissioner of Agriculture	10
Commissioner of Labor	11
Commissioner of Insurance	12
Speaker Pro Tempore of the House	13
Legislative Services Officer	14
Secretary of Administration	15
Secretary of Environment and Natural Resources	16
Secretary of Revenue	17
Secretary of Health and Human Services	18
Secretary of Commerce	19
Secretary of Correction	20
Secretary of Cultural Resources	21
Secretary of Crime Control and Public Safety	22
Secretary of Juvenile Justice and Delinquency Prevention	23
Governor's Staff	24-29
State Budget Officer	30
State Personnel Director	31
Chair of the State Board of Education	~~42~~32
President of the U.N.C. System	~~43~~33
President of the Community Colleges System	34
State Board Member, Commission Member, or State Employee Not Named in List	35-43
Alcoholic Beverage Control Commission	44-46
Assistant Commissioners of Agriculture	47-48
Deputy Secretary of State	49
Deputy State Treasurer	50
Assistant State Treasurer	51
Deputy Commissioner for the Department of Labor	52
Chief Deputy for the Department of Insurance	53
Assistant Commissioner of Insurance	54
Deputies and Assistant to the Attorney General	55-65
Board of Economic Development Nonlegislative Member	66-88

State Ports Authority Nonlegislative Member	89-96
Utilities Commission Member	~~97-104~~97-103
State Board Member, Commission Member, or State Employee Not Named in List	104
Post-Release Supervision and Parole Commission Member	~~105-109~~105-107
State Board Member, Commission Member, or State Employee Not Named in List	~~110-200~~108-200

(b) Designation. – When the table in subsection (a) designates a range of numbers for certain officials, the number given an official in that group shall be assigned. The Governor shall assign a number for members of the Governor's staff, ~~nonlegislative members of the Advisory Budget Commission,~~ nonlegislative members of the Board of Economic Development, nonlegislative members of the State Ports Authority, members of State boards and commissions, and for State employees. The Attorney General shall assign a number for the Attorney General's deputies and assistants.

The first number assigned to the Alcoholic Beverage Control Commission is reserved for the Chair of that Commission. The remaining numbers shall be assigned to the Alcoholic Beverage Control Commission members on the basis of seniority. The first number assigned to the Utilities Commission is reserved for the Chair of that Commission. The remaining numbers shall be assigned to the Utilities Commission members on the basis of seniority. The first number assigned to the Post-Release Supervision and Parole Commission is reserved for the Chair of that Commission. The remaining numbers shall be assigned to the Post-Release Supervision and Parole Commission members on the basis of seniority."

SECTION 3.(b) This section becomes effective January 1, 2008.

SECTION 4. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Coastal Conservation Association	$30.00
Crystal Coast	$30.00
El Pueblo	$30.00
First in Forestry	$30.00
Historical Attraction	$30.00
Home Care and Hospice	$30.00
HOMES4NC	$30.00
Hospice Care	$30.00
In God We Trust	$30.00
National Kidney Foundation	$30.00
North Carolina 4-H Development Fund	$30.00
North Carolina Libraries	$30.00
Personalized	$30.00
Share the Road	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00

Support Our Troops	$30.00
AIDS Awareness	$25.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00
NC Children's Promise	$25.00
NC Coastal Federation	~~$25.00~~$30.00
Nurses	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
ALS Association, Jim "Catfish" Hunter Chapter	$20.00
Animal Lovers	$20.00
ARC of North Carolina	$20.00
Audubon North Carolina	$20.00
Autism Society of North Carolina	$20.00
Be Active NC	$20.00
Brain Injury Awareness	$20.00
Breast Cancer Awareness	$20.00
Breast Cancer Earlier Detection	$20.00
Buddy Pelletier Surfing Foundation	$20.00
Daughters of the American Revolution	$20.00
Ducks Unlimited	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Juvenile Diabetes Research Foundation	$20.00
Harley Owners' Group	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
NC Tennis Foundation	$20.00
NC Trout Unlimited	$20.00
NC Wildlife Habitat Foundation	$20.00
Omega Psi Phi Fraternity	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00

Support Public Schools	$20.00
US Equine Rescue League	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 5. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
AIDS Awareness	$10	$15	0	0
Alpha Phi Alpha Fraternity	$10	$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	$10	$10	0	0
Animal Lovers	$10	$10	0	0
ARC of North Carolina	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Brain Injury Awareness	$10	$10	0	0
Breast Cancer Awareness	$10	$10	0	0
Breast Cancer Earlier Detection	$10	$10	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Carolina's Aviation Museum	$10	$5	0	0
Coastal Conservation Association	$10	$20	0	0
Crystal Coast	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
First in Forestry	$10	$10	$10	0
Goodness Grows	$10	$15	0	0

Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
Home Care and Hospice	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Juvenile Diabetes Research Foundation	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
March of Dimes	$10	$10	0	0
National Kidney Foundation	$10	$20	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
NC Agribusiness	$10	$15	0	0
NC Children's Promise	$10	$15	0	0
NC Coastal Federation	$10	~~$15~~$20	0	0
NC 4-H Development Fund	$10	$20	0	0
NC Tennis Foundation	$10	$10	0	0
NC Trout Unlimited	$10	$10	0	0
North Carolina Libraries	$10	$20	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Personalized	$10	0	$15	$5
Prince Hall Mason	$10	$10	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0

Stock Car Racing Theme	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 6.(a) G.S. 20-81.12(b14) reads as rewritten:

"(b14) Omega Psi Phi Fraternity Plates. – The Division must receive 300 or more applications for an Omega Psi Phi Fraternity plate and receive any necessary licenses, without charge, from Omega Psi Phi Fraternity, Incorporated, before the plate may be developed. The Division ~~shall~~ must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Omega Psi Phi Fraternity plates to ~~the United Negro College Fund, Inc., through the Winston-Salem Area Office for the benefit of UNCF colleges in this State.~~the Carolina Uplift Foundation, Inc., for youth activity and scholarship programs."

SECTION 6.(b) This section becomes effective July 1, 2007, and applies to fees transferred from the Collegiate and Cultural Attraction Plate Account on or after that date.

SECTION 7. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b62) Home Care and Hospice. – The Division must receive 300 or more applications for the Home Care and Hospice plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Home Care and Hospice plates to The Association for Home and Hospice Care of North Carolina for its educational programs in support of home care and hospice care in North Carolina.

(b63) Hospice Care. – The Division must receive 300 or more applications for the Hospice Care plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Hospice Care plates to The Carolinas Center for Hospice and End of Life Care for its programs in support of hospice care in North Carolina.

(b64) Breast Cancer Earlier Detection. – The Division must receive 300 or more applications for a Breast Cancer Earlier Detection plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Breast Cancer Earlier Detection plates to the Friends for An Earlier Breast Cancer Test, Inc., to support services to detect breast cancer earlier.

(b65) Juvenile Diabetes Research Foundation. – The Division must receive 300 or more applications for the Juvenile Diabetes Research Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Juvenile Diabetes Research Foundation plates to the Triangle Eastern North Carolina Chapter of the Juvenile Diabetes Research Foundation International, Inc., to provide funding for research to

cure diabetes. The Foundation must distribute the amount it receives to all Juvenile Diabetes Research Foundation, Inc., chapters located in the State in equal shares.

(b66) AIDS Awareness. – The Division must receive 300 or more applications for the AIDS Awareness plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of AIDS Awareness plates to The Alliance of AIDS Services-Carolina for its programs in support of AIDS awareness in North Carolina.

(b67) ALS Research. – The Division must receive 300 or more applications for the ALS Research plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of ALS Research plates to the ALS Association, Jim "Catfish" Hunter Chapter, to help provide funding for research to cure amyotrophic lateral sclerosis and provide support to families who have a loved one suffering from the disease.

(b68) Brain Injury Awareness. – The Division must receive 300 or more applications for the Brain Injury Awareness plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Brain Injury Awareness plates to the Brain Injury Association of North Carolina, Inc., for support services to individuals with traumatic brain injuries.

(b69) National Kidney Foundation. – The Division must receive 300 or more applications for a National Kidney Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of National Kidney Foundation plates to the National Kidney Foundation of North Carolina, Inc., to support the Foundation's services for the detection, prevention, and treatment of diseases of the kidney and urinary tract.

(b70) NC Tennis Foundation. – The Division must receive 300 or more applications for the NC Tennis Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Tennis Foundation plates to the North Carolina Tennis Foundation, Inc., to provide funding for development and growth of tennis as a sport in North Carolina."

SECTION 8.(a) G.S. 20-79.7(a), as enacted by Section 4 of this act, reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Coastal Conservation Association	$30.00
Crystal Coast	$30.00
El Pueblo	$30.00
First in Forestry	$30.00
Historical Attraction	$30.00
Home Care and Hospice	$30.00
HOMES4NC	$30.00
Hospice Care	$30.00

In God We Trust	$30.00
National Kidney Foundation	$30.00
North Carolina 4-H Development Fund	$30.00
North Carolina Libraries	$30.00
Personalized	$30.00
Share the Road	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Support Our Troops	$30.00
AIDS Awareness	$25.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
National Multiple Sclerosis Society	$25.00
National Wild Turkey Federation	$25.00
NC Agribusiness	$25.00
NC Children's Promise	$25.00
NC Coastal Federation	$30.00
Nurses	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Alpha Phi Alpha Fraternity	$20.00
ALS Association, Jim "Catfish" Hunter Chapter	$20.00
Animal Lovers	$20.00
ARC of North Carolina	$20.00
Audubon North Carolina	$20.00
Autism Society of North Carolina	$20.00
Be Active NC	$20.00
Brain Injury Awareness	$20.00
~~Breast Cancer Awareness~~	~~$20.00~~
Breast Cancer Earlier Detection	$20.00
Buddy Pelletier Surfing Foundation	$20.00
Daughters of the American Revolution	$20.00
Ducks Unlimited	$20.00
Friends of the NRA	$20.00
Greyhound Friends of North Carolina	$20.00
Guilford Battleground Company	$20.00
Juvenile Diabetes Research Foundation	$20.00
Harley Owners' Group	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
NC Tennis Foundation	$20.00
NC Trout Unlimited	$20.00

NC Wildlife Habitat Foundation	$20.00
Omega Psi Phi Fraternity	$20.00
Prince Hall Mason	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
SCUBA	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
US Equine Rescue League	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Carolina's Aviation Museum	$15.00
Leukemia & Lymphoma Society	$15.00
Lung Cancer Research	$15.00
Shag Dancing	$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 8.(b) G.S. 20-79.7(b), as enacted by Section 5 of this act, reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
AIDS Awareness	$10	$15	0	0
Alpha Phi Alpha Fraternity	$10	$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	$10	$10	0	0
Animal Lovers	$10	$10	0	0
ARC of North Carolina	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Autism Society of North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Brain Injury Awareness	$10	$10	0	0
~~Breast Cancer Awareness~~	~~$10~~	~~$10~~	~~0~~	~~0~~
Breast Cancer Earlier Detection	$10	$10	0	0
Buddy Pelletier Surfing Foundation	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0

Carolina's Aviation Museum	$10	$5	0	0
Coastal Conservation Association	$10	$20	0	0
Crystal Coast	$10	$20	0	0
Daughters of the American Revolution	$10	$10	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
First in Forestry	$10	$10	$10	0
Friends of the NRA	$10	$10	0	0
Goodness Grows	$10	$15	0	0
Greyhound Friends of North Carolina	$10	$10	0	0
Guilford Battleground Company	$10	$10	0	0
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
Home Care and Hospice	$10	$20	0	0
HOMES4NC	$10	$20	0	0
Hospice Care	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Juvenile Diabetes Research Foundation	$10	$10	0	0
Kids First	$10	$15	0	0
Leukemia & Lymphoma Society	$10	$5	0	0
Litter Prevention	$10	$10	0	0
Lung Cancer Research	$10	$5	0	0
March of Dimes	$10	$10	0	0
National Kidney Foundation	$10	$20	0	0
National Multiple Sclerosis Society	$10	$15	0	0
National Wild Turkey Federation	$10	$15	0	0
NC Agribusiness	$10	$15	0	0
NC Children's Promise	$10	$15	0	0
NC Coastal Federation	$10	$20	0	0
NC 4-H Development Fund	$10	$20	0	0
NC Tennis Foundation	$10	$10	0	0
NC Trout Unlimited	$10	$10	0	0
North Carolina Libraries	$10	$20	0	0
NC Wildlife Habitat Foundation	$10	$10	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Personalized	$10	0	$15	$5
Prince Hall Mason	$10	$10	0	0
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0

Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
SCUBA	$10	$10	0	0
Shag Dancing	$10	$5	0	0
Share the Road	$10	$20	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support Our Troops	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
US Equine Rescue League	$10	$10	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 8.(c) G.S. 20-81.12(b53) is repealed.

SECTION 8.(d) G.S. 20-79.4(b)(15) reads as rewritten:

"(15) Breast Cancer Awareness. – Issuable to the registered owner of a motor ~~vehicle in accordance with G.S. 20-81.12.~~ vehicle. The plate shall bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The Division must receive 300 or more applications for the plate before it may be developed."

SECTION 8.(e) This section becomes effective October 1, 2007, and any funds remaining in the Collegiate and Cultural Attraction Plate Account on that date that are derived from sales of the Breast Cancer Awareness plate must be transferred to the Friends for An Earlier Breast Cancer Test, Inc.

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:21 p.m. on the 30th day of August, 2007.

Session Law 2007-484 **Senate Bill 613**

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

The General Assembly of North Carolina enacts:

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

SECTION 1. G.S. 8-58.20 reads as rewritten:

"…

(b) A forensic analysis, to be admissible under this section, shall be performed in accordance with rules or procedures adopted by the State Bureau of Investigation, or by another laboratory ~~certified~~ accredited by the American Society of Crime Laboratory ~~Directors (ASCLD),~~ Directors/Laboratory Accreditation Board (ASCLD/LAB) for the submission, identification, analysis, and storage of forensic analyses. The analyses of DNA samples and typing results of DNA samples shall be performed in accordance with the rules or procedures of the State Bureau of Investigation or other ~~ASCLD-certified~~ ASCLD/LAB-accredited laboratory.

(c) The analyst who analyzes the forensic sample and signs the report shall complete an affidavit on a form developed by the State Bureau of Investigation. In the affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience to perform the analysis, (ii) the name and location of the laboratory where the analysis was performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst shall also aver in the affidavit that the tests were performed pursuant to the ~~ASCLD~~ ASCLD/LAB standards for that discipline and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit by a forensic analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any criminal proceeding with respect to the forensic analysis administered and the procedures followed.

…."

SECTION 2. G.S. 14-208.8A(a)(2) reads as rewritten:

"(2) Maintains a temporary ~~residence, including~~ residence in that county for more than 10 business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year."

SECTION 3.(a) G.S. 14-298 reads as rewritten:

"§ **14-298. Seizure of illegal gaming items.**

Upon a determination that probable cause exists to believe that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or ~~G.S. 14-306.1,~~G.S. 14-306.1A, is in the illegal possession or use of any person within the limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the items in accordance with applicable State law. Any law enforcement agency in possession of that item shall retain the item pending a disposition order from a district or superior court judge. Upon application by the law enforcement agency, district attorney, or owner, and after notice and opportunity to be heard by all parties, if the court determines that the item is unlawful to possess, it shall enter an order releasing the item to the law enforcement agency for destruction or for training purposes. If the court determines that the item is not unlawful to possess and will not be used in violation of the law, the item shall be ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures for release shall not apply, however, with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment."

SECTION 3.(b) This section is effective when it becomes law and applies to offenses committed on or after that date.

SECTION 4. G.S. 15A-736.1 is recodified in Article 26 of Chapter 15A of the General Statutes as G.S. 15A-534.6. As recodified by this section, G.S. 15A-534.6 reads as rewritten:

"§ **15A-534.6. Bail in cases of manufacture of methamphetamine.**

~~Notwithstanding the provisions of G.S. 15A-736, in determining bond and other conditions of release for a person arrested for~~ In all cases in which the defendant is charged with any violation of G.S. 90-95(b)(1a) or ~~G.S. 90-95(d1)(2)b.,~~ G.S. 90-95(d1)(2)b., in determining bond and other conditions of release, the magistrate, judge, or court shall consider any evidence that the person is in any manner dependent upon methamphetamine or has a pattern of regular illegal use of methamphetamine. A rebuttable presumption that no conditions of release on bond would assure the safety of the community or any person therein shall arise if the State shows by clear and convincing evidence both:

(1) The person was arrested for a violation of G.S. 90-95(b)(1a) or G.S. 90-95(d1)(2)b., relating to the manufacture of methamphetamine or possession of an immediate precursor chemical with knowledge or reasonable cause to know that the chemical will be used to manufacture methamphetamine.

(2) The person is in any manner dependent upon methamphetamine or has a pattern of regular illegal use of methamphetamine, and the violation referred to in subdivision (1) of this section was committed or attempted in order to maintain or facilitate the dependence or pattern of illegal use in any manner."

SECTION 5. G.S. 20-116(c) reads as rewritten:

"(c) No vehicle, unladen or with load, shall exceed a height of 13 feet, six inches. Provided, however, that neither the State of North Carolina nor any agency or subdivision thereof, nor any person, firm or corporation, shall be required to raise, alter, construct or reconstruct any underpass, wire, pole, trestle, or other structure to permit the passage of any vehicle having a height, unladen or with load, in excess of 12 feet, six inches. Provided further, that the operator or owner of any vehicle having an overall height, whether unladen or with load, in excess of 12 feet, six inches, shall be liable for damage to any structure caused by such vehicle having a height in excess of 12 feet, six inches. ~~The term "automobile transport" as used in this subsection shall mean only vehicles engaged exclusively in transporting automobiles, trucks and other commercial vehicles.~~"

SECTION 6. G.S. 20-286(8c) reads as rewritten:

"(8c) Good faith. – ~~Honest~~ Honesty in fact and the observation of reasonable commercial standards of fair dealing ~~in the trade~~ as defined and interpreted in ~~G.S. 25-2-103(1)(b).~~G.S. 25-1-201(b)(20)."

SECTION 7.(a) G.S. 20-309(g) is repealed.

SECTION 7.(b) G.S. 20-309.2 is amended by adding a new subsection to read:

"(f) Clear Proceeds of Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 7.(c) G.S. 20-311 is amended by adding a new subsection to read:

"(f) Clear Proceeds of Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 7.(d) G.S. 20-309(h) is recodified as G.S. 20-311(g).

SECTION 7.(e) This section is effective on the effective date of S.L. 2006-213 and applies to lapses occurring on or after that date.

SECTION 8. G.S. 50A-305(b)(2) reads as rewritten:

"(2) Direct the petitioner to serve notice upon the persons named pursuant to ~~subdivison (a)(3),~~subdivision (a)(3) of this section, including notice of their opportunity to contest the registration in accordance with this section."

SECTION 9.(a) G.S. 53-96.1 reads as rewritten:

"§ **53-96.1. Salaries, promotions, and leave of employees of the Office of the Commissioner of Banks.**

~~(a) The Office of the Commissioner of Banks and its employees are exempt from the classification and compensation rules established by the State Personnel Commission pursuant to G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to hours and days of work, vacation and sick leave; G.S. 126-4(6) only as it applies to promotion and transfer; G.S. 126-4(10) only as it applies to the prohibition of the establishment of incentive pay programs; and Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1.~~

(b) The exemptions to Chapter 126 of the General Statutes authorized by ~~this section~~ G.S. 126-5(c11) for the Office of the Commissioner of Banks and its employees shall be used to develop organizational classification and compensation innovations that will result in the enhanced efficiency of operations. The Office of State Personnel shall assist the Commissioner of Banks in the development and implementation of an organizational structure and human resources programs that make the most appropriate use of the exemptions, including (i) a system of job categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform performance assessments for agency personnel tailored to the agency's needs. The Commissioner of Banks may, under the supervision of the Office of State Personnel, develop and implement organizational classification and compensation innovations having the potential to benefit all State agencies."

SECTION 9.(b) G.S. 143B-53.2 reads as rewritten:

"§ **143B-53.2. Salaries, promotions, and leave of employees of the North Carolina Department of Cultural Resources.**

~~(a) The employees listed in subsection (b) of this section are exempt from the classification and compensation rules established by the State Personnel Commission pursuant to G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to hours and days of work, vacation, and sick leave; G.S. 126-4(6) only as it applies to promotion and transfer; G.S. 126-4(10) only as it applies to the prohibition of the establishment of incentive pay programs; and Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1.~~

~~(b) The following employees of the Department of Cultural Resources are exempt as provided in subsection (c) of this section:~~

~~(1) Director and Associate Directors of the North Carolina Museum of History.~~
~~(2) Program Chiefs and Curators.~~
~~(3) Regional History Museum Administrators and Curators.~~
~~(4) North Carolina Symphony.~~
~~(5) Director, Associate Directors, and Curators of Tryon Palace.~~
~~(6) Director, Associate Directors, and Curators of Transportation Museum.~~
~~(7) Director and Associate Directors of the North Carolina Arts Council.~~
~~(8) Director, Assistant Directors, and Curators of the Division of State Historic Sites.~~

(c) The exemptions to Chapter 126 of the General Statutes authorized by ~~subsection (a) of this section and enumerated in subsection (b) of this section~~ G.S. 126-5(c11) for the employees of the Department of Cultural Resources listed in that subsection shall be used to develop organizational classification and compensation innovations that will result in the enhanced efficiency of operations. The Office of State Personnel shall assist the Secretary of the Department of Cultural Resources in the development and implementation of an organizational structure and human resources programs that make the most appropriate use of the exemptions, including (i) a system of job categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform performance assessments for agency personnel tailored to the agency's needs. The Secretary of the Department of Cultural Resources may, under the supervision of the Office of State Personnel, develop and implement organizational classification and compensation innovations having the potential to benefit all State agencies."

SECTION 9.(c) G.S. 126-5 is amended by adding a new subsection to read:

"(c11) The following are exempt from: (i) the classification and compensation rules established by the State Personnel Commission pursuant to G.S. 126-4(1) through (4); (ii) G.S. 126-4(5) only as it applies to hours and days of work, vacation, and sick leave; (iii) G.S. 126-4(6) only as it applies to promotion and transfer; (iv) G.S. 126-4(10) only as it applies to the prohibition of the establishment of incentive pay programs; and (v) Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1:

(1) The Office of the Commissioner of Banks and its employees; and
(2) The following employees of the Department of Cultural Resources:
  a. Director and Associate Directors of the North Carolina Museum of History.
  b. Program Chiefs and Curators.
  c. Regional History Museum Administrators and Curators.
  d. North Carolina Symphony.
  e. Director, Associate Directors, and Curators of Tryon Palace.
  f. Director, Associate Directors, and Curators of Transportation Museum.
  g. Director and Associate Directors of the North Carolina Arts Council.
  h. Director, Assistant Directors, and Curators of the Division of State Historic Sites."

SECTION 10.(a) G.S. 70-28(1) reads as rewritten:

"(1) ~~"Chief~~ "State Archaeologist" means the ~~Chief~~ head of the Office of State Archaeology section of the Office of Archives and History, Department of Cultural Resources."

SECTION 10.(b) G.S. 70-29 reads as rewritten:

"§ **70-29. Discovery of remains and notification of authorities.**

(a) Any person knowing or having reasonable grounds to believe that unmarked human burials or human skeletal remains are being disturbed, destroyed, defaced, mutilated, removed, or exposed, shall notify immediately the medical examiner of the county in which the remains are encountered.

(b) If the unmarked human burials or human skeletal remains are encountered as a result of construction or agricultural activities, disturbance of the remains shall cease immediately and shall not resume without authorization from either the county medical examiner or the ~~Chief~~ State Archaeologist, under the provisions of G.S. 70-30(c) or 70-30(d).

(c) (1) If the unmarked human burials or human skeletal remains are encountered by a professional archaeologist, as a result of survey or test excavations, the remains may be excavated and other activities may resume after notification, by telephone or registered letter, is provided to the ~~Chief~~ State Archaeologist. The treatment, analysis and disposition of the remains shall come under the provisions of G.S. 70-34 and 70-35.

(2) If a professional archaeologist directing long-term (research designed to continue for one or more field seasons of four or more weeks' duration) systematic archaeological research sponsored by any accredited college or university in North Carolina, as a part of his research, recovers Native American skeletal remains, he may be exempted from the provisions of G.S. 70-30, 70-31, 70-32, 70-33, 70-34 and 70-35(c) of this Article so long as he:

a. Notifies the Executive Director within five working days of the initial discovery of Native American skeletal remains;

b. Reports to the Executive Director, at agreed upon intervals, the status of the project;

c. Curates the skeletal remains prior to ultimate disposition; and

d. Conducts no destructive skeletal analysis without the express permission of the Executive Director.

Upon completion of the project fieldwork, the professional archaeologist, in consultation with the skeletal analyst and the Executive Director, shall determine the schedule for the completion of the skeletal analysis. In the event of a disagreement, the time for completion of the skeletal analysis shall not exceed four years. The Executive Director shall have authority concerning the ultimate disposition of the Native American skeletal remains after analysis is completed in accordance with G.S. 70-35(a) and 70-36(b) and (c).

(d) The ~~Chief~~ State Archaeologist shall notify the Chief, Medical Examiner Section, Division of Health Services, Department of Health and Human Services, of any reported human skeletal remains discovered by a professional archaeologist."

SECTION 10.(c) G.S. 70-30 reads as rewritten:

"§ **70-30. Jurisdiction over remains.**

(a) Subsequent to notification of the discovery of an unmarked human burial or human skeletal remains, the medical examiner of the county in which the remains were encountered shall determine as soon as possible whether the remains are subject to the provisions of G.S. 130-198.

(b) If the county medical examiner determines that the remains are subject to the provisions of G.S. 130-198, he will immediately proceed with his investigation.

(c) If the county medical examiner determines that the remains are not subject to the provisions of G.S. 130-198, he shall so notify the Chief Medical Examiner. The Chief Medical Examiner shall notify the ~~Chief~~ State Archaeologist of the discovery of the human skeletal remains and the findings of the county medical examiner. The ~~Chief~~ State Archaeologist shall immediately take charge of the remains.

(d) Subsequent to taking charge of the human skeletal remains, the ~~Chief~~ State Archaeologist shall have 48 hours to make arrangements with the landowner for the protection or removal of the unmarked human burial or human skeletal remains. The ~~Chief~~ State Archaeologist shall have no authority over the remains at the end of the 48-hour period and may not prohibit the resumption of the construction or agricultural activities without the permission of the landowner."

SECTION 10.(d) G.S. 70-31 reads as rewritten:

"§ **70-31. Archaeological investigation of human skeletal remains.**

(a) If an agreement is reached with the landowner for the excavation of the human skeletal remains, the ~~Chief~~ State Archaeologist shall either designate a member of his staff or authorize another professional archaeologist to excavate or supervise the excavation.

(b) The professional archaeologist excavating human skeletal remains shall report to the ~~Chief~~ State Archaeologist, either in writing or by telephone, his opinion on the cultural and biological characteristics of the remains. This report shall be transmitted as soon as possible after the commencement of excavation, but no later than two full business days after the removal of a burial.

(c) The ~~Chief~~ State Archaeologist, in consultation with the professional archaeologist excavating the remains, shall determine where the remains shall be held subsequent to excavation, pending other arrangements according to G.S. 70-32 or 70-33.

(d) The Department of Cultural Resources may obtain administrative inspection warrants pursuant to the provisions of Chapter 15, Article 4A of the General Statutes to enforce the provisions of this Article, provided that prior to the requesting of the administrative warrant, the Department shall contact the affected landowners and request their consent for access to their land for the purpose of gathering such information. If consent is not granted, the Department shall give reasonable notice of the time, place and before whom the administrative warrant will be requested so that the owner or owners may have an opportunity to be heard."

SECTION 10.(e) G.S. 70-32 reads as rewritten:

"§ **70-32. Consultation with the Native American Community.**

(a) If the professional archaeologist determines that the human skeletal remains are Native American, the ~~Chief~~ State Archaeologist shall immediately notify the Executive Director of the North Carolina Commission of Indian Affairs. The Executive Director shall notify and consult with the Eastern Band of Cherokee or other appropriate tribal group or community.

(b) Within four weeks of the notification, the Executive Director shall communicate in writing to the ~~Chief~~ State Archaeologist, the concerns of the

Commission of Indian Affairs and an appropriate tribal group or community with regard to the treatment and ultimate disposition of the Native American skeletal remains.

(c) Within 90 days of receipt of the concerns of the Commission of Indian Affairs, the ~~Chief~~ State Archaeologist and the Executive Director, with the approval of the principal tribal official of an appropriate tribe, shall prepare a written agreement concerning the treatment and ultimate disposition of the Native American skeletal remains. The written agreement shall include the following:

(1) Designation of a qualified skeletal analyst to work on the skeletal remains;

(2) The type of analysis and the specific period of time to be provided for analysis of the skeletal remains;

(3) The timetable for written progress reports and the final report concerning the skeletal analysis to be provided to the ~~Chief~~ State Archaeologist and the Executive Director by the skeletal analyst; and

(4) A plan for the ultimate disposition of the Native American remains subsequent to the completion of adequate skeletal analysis.

If no agreement is reached within 90 days, the Archaeological Advisory Committee shall determine the terms of the agreement."

SECTION 10.(f) G.S. 70-33 reads as rewritten:

"§ **70-33. Consultation with other individuals.**

(a) If the professional archaeologist determines that the human skeletal remains are other than Native American, the ~~Chief~~ State Archaeologist shall publish notice that excavation of the remains has occurred, at least once per week for four successive weeks in a newspaper of general circulation in the county where the burials or skeletal remains were situated, in an effort to determine the identity or next of kin or both of the deceased.

(b) If the next of kin are located, within 90 days the ~~Chief~~ State Archaeologist in consultation with the next of kin shall prepare a written agreement concerning the treatment and ultimate disposition of the skeletal remains. The written agreement shall include:

(1) Designation of a qualified skeletal analyst to work on the skeletal remains;

(2) The type of analysis and the specific period of time to be provided for analysis of the skeletal remains;

(3) The timetable for written progress reports and the final report concerning the skeletal analysis to be provided to the ~~Chief~~ State Archaeologist and the next of kin by the skeletal analyst; and

(4) A plan for the ultimate disposition of the skeletal remains subsequent to the completion of adequate skeletal analysis.

If no agreement is reached, the remains shall be handled according to the wishes of the next of kin."

SECTION 10.(g) G.S. 70-34 reads as rewritten:

"§ **70-34. Skeletal analysis.**

(a) Skeletal analysis conducted under the provisions of this Article shall only be accomplished by persons having those qualifications expressed in G.S. 70-28(5).

(b) Prior to the execution of the written agreements outlined in G.S. 70-32(c) and 70-33(b), the ~~Chief~~ State Archaeologist shall consult with both the professional archaeologist and the skeletal analyst investigating the remains.

(c) The professional archaeologist and the skeletal analyst shall submit a proposal to the ~~Chief~~ State Archaeologist within the 90-day period set forth in G.S. 70-32(c) and 70-33(b), including:

(1) Methodology and techniques to be utilized;

(2) Research objectives;

(3) Proposed time schedule for completion of the analysis; and

(4) Proposed time intervals for written progress reports and the final report to be submitted.

(d) If the terms of the written agreement are not substantially met, the Executive Director or the next of kin, after consultation with the ~~Chief~~ State Archaeologist, may take possession of the skeletal remains. In such case, the ~~Chief~~ State Archaeologist may ensure that appropriate skeletal analysis is conducted by another qualified skeletal analyst prior to ultimate disposition of the skeletal remains."

SECTION 10.(h) G.S. 70-35(c) reads as rewritten:

"(c) If the ~~Chief~~ State Archaeologist has received no information or communication concerning the identity or next of kin of the deceased, the skeletal remains shall be transferred to the ~~Chief~~ State Archaeologist and permanently curated according to standard museum procedures after adequate skeletal analysis."

SECTION 10.(i) G.S. 70-48(5) reads as rewritten:

"(5) "State Archaeologist" means the head of the Office of State Archaeology section ~~Archaeology Section~~ of the Office of Archives and History, Department of Cultural Resources."

SECTION 10.(j) This section is effective on and after October 11, 2002.

SECTION 11.(a) G.S. 70-27(b) reads as rewritten:

"(b) The purpose of this Article is (i) to provide adequate protection from vandalism for unmarked human burials and human skeletal remains, (ii) to provide adequate protection for unmarked human burials and human skeletal remains not within the jurisdiction of the medical examiner pursuant to ~~G.S. 130-198~~ G.S. 130A-383 that are encountered during archaeological excavation, construction, or other ground disturbing activities, found anywhere within the State except on federal land, and (iii) to provide for adequate skeletal analysis of remains removed or excavated from unmarked human burials if the analysis would result in valuable scientific information."

SECTION 11.(b) G.S. 70-30, as amended by Section 10(c) of this act, reads as rewritten:

"§ **70-30. Jurisdiction over remains.**

(a) Subsequent to notification of the discovery of an unmarked human burial or human skeletal remains, the medical examiner of the county in which the remains were encountered shall determine as soon as possible whether the remains are subject to the provisions of ~~G.S. 130-198.~~G.S. 130A-383.

(b) If the county medical examiner determines that the remains are subject to the provisions of ~~G.S. 130-198, he~~ G.S. 130A-383, the county medical examiner will immediately proceed with ~~his~~ the investigation.

(c) If the county medical examiner determines that the remains are not subject to the provisions of ~~G.S. 130-198, he~~ G.S. 130A-383, the county medical examiner shall so notify the Chief Medical Examiner. The Chief Medical Examiner shall notify the State Archaeologist of the discovery of the human skeletal remains and the findings of the county medical examiner. The State Archaeologist shall immediately take charge of the remains.

(d) Subsequent to taking charge of the human skeletal remains, the State Archaeologist shall have 48 hours to make arrangements with the landowner for the protection or removal of the unmarked human burial or human skeletal remains. The State Archaeologist shall have no authority over the remains at the end of the 48-hour period and may not prohibit the resumption of the construction or agricultural activities without the permission of the landowner."

SECTION 11.(c) G.S. 70-39 reads as rewritten:

"§ **70-39. Exceptions.**

(a) Human skeletal remains acquired from commercial biological supply houses or through medical means are not subject to the provisions of G.S. 70-37(a).

(b) Human skeletal remains determined to be within the jurisdiction of the medical examiner according to the provisions of ~~G.S. 130-198~~ G.S. 130A-383 are not subject to the prohibitions contained in this Article."

SECTION 11.(d) G.S. 152-7(6) reads as rewritten:

"§ **152-7. Duties of coroners with respect to inquests and preliminary hearings.**

The duties of the several coroners with respect to inquests and preliminary hearings shall be as follows:

…

(6) Immediately upon information of the death of a person within his county, under such circumstances as call for an investigation as provided in ~~G.S. 130-198~~ G.S. 130A-383, the coroner shall notify the district attorney of the superior court and the medical examiner.

…."

SECTION 12.(a) G.S. 110-142.1(i) reads as rewritten:

"(i) The designated representative shall notify the individual in writing that the individual may, by filing a motion, request any or all of the following:

(1) Judicial review of the designated representative's decision.

(2) A judicial determination of compliance.

(3) A modification of the support order.

The notice shall also contain the name and address of the court in which the individual shall file the motion and inform the individual that the individual's name shall remain on the certified list unless the judicial review results in a finding by the court that the ~~the~~ individual is in compliance with this section. The notice shall also inform the individual that the individual must comply with all statutes and rules of court regarding motions and notices of hearing and that any motion filed under this section is subject to the limitations of G.S. 50-13.10."

SECTION 12.(b) G.S. 110-142.1(l) reads as rewritten:

"(l) The Department of Health and Human Services shall prescribe forms for use by the designated representative. When the individual is no longer in arrears or negotiates an agreement with the designated representative for a payment schedule on arrears or ~~reimbursement~~ reimbursement, the designated representative shall mail to the individual and the appropriate board a notice certifying that the individual is in compliance. The receipt of certification shall serve to notify the individual and the board that, for the purposes of this section, the individual is in compliance with the order for support. When the individual has complied with or is no longer subject to a subpoena issued pursuant to a child support or paternity establishment proceeding, the designated representative shall mail to the individual and the appropriate board a notice certifying that the individual is in compliance. The receipt of certification shall serve to notify the individual and the board that the individual is in compliance with this section."

SECTION 13. G.S. 113-291.10(a) reads as rewritten:

"§ **113-291.10. Beaver Damage Control Advisory Board.**

(a) There is established the Beaver Damage Control Advisory Board. The Board shall consist of nine members, as follows:

(1) The Executive Director of the North Carolina Wildlife Resources Commission, or his designee, who shall serve as chair;

(2) The Commissioner of Agriculture, ~~Agriculture and Consumer Services,~~ or a designee;

(3) The Director of the Division of Forest Resources of the Department of Environment and Natural Resources, or a designee;

(4) The Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources, or a designee;

(5) The Director of the North Carolina Cooperative Extension Service, or a designee;

(6) The Secretary of Transportation, or a designee;

(7) The State Director of the Wildlife Services Division of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or a designee;

(8) The President of the North Carolina Farm Bureau Federation, Inc., or a designee, representing private landowners; and

(9) A representative of the North Carolina Forestry Association."

SECTION 14. G.S. 115C-295.1(f) reads as rewritten:

"(f) Members of the Commission shall receive compensation for their services and reimbursement for expenses incurred in the performance of their duties required by this Article, at the rate prescribed in ~~G.S. 90B-5.~~ G.S. 93B-5."

SECTION 15. G.S. 116-143.3(a)(3) is repealed.

SECTION 16. G.S. 120-87(a) reads as rewritten:

"§ **120-87. Disclosure of confidential information.**

(a) No legislator shall use or disclose in any way confidential information gained in the course of the legislator's official activities or by reason of the legislator's official position that could result in financial gain for: (i) the legislator; (ii) a business with which the legislator is associated; (iii) a nonprofit corporation or organization with which the legislator is associated; (iv) a member of the legislator's immediate ~~household;~~family; or (v) any other person."

SECTION 17. G.S. 120-123(2) is repealed.

SECTION 18. G.S. 122C-115.4(d) reads as rewritten:

"(d) Except as provided in ~~G.S. 122C-142.1~~ G.S. 122C-124.1 and G.S. 122C-125, the Secretary may not remove from an LME any function enumerated under subsection (b) of this section unless all of the following applies:

(1) The LME fails during the previous three months to achieve a satisfactory outcome on any of the critical performance measures developed by the Secretary under G.S. 122C-112.1(33).

(2) The Secretary provides focused technical assistance to the LME in the implementation of the function. The assistance shall continue for at least six months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.

(3) If, after six months of receiving technical assistance from the Secretary, the LME still fails to achieve or maintain a satisfactory outcome on the critical performance measure, the Secretary shall enter

into a contract with another LME or agency to implement the function on behalf of the LME from which the function has been removed."

SECTION 19. G.S. 140-5.17 is repealed.

SECTION 20. G.S. 147-33.101(a) reads as rewritten:

"(a) When the dollar value of a contract for the procurement of information technology equipment, materials, and supplies exceeds the benchmark established by the ~~Chief~~ State Chief Information Officer, the contract shall be reviewed by the Board of Awards pursuant to G.S. 143-52.1 prior to the contract being awarded."

SECTION 21. G.S. 163-122(a) reads as rewritten:

"(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. – Any qualified voter who seeks to have his name printed on the general election ballot as an unaffiliated candidate shall:

(1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the State equal in number to two percent (2%) of the total number of voters who voted in the most recent general election for Governor. Also, the petition must be signed by at least 200 registered voters from each of four congressional districts in North Carolina. No later than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections, each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. Provided the petitions are timely submitted, the chairman shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county and shall attach to the petition his signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in his county. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. Verification by the chairman of the county board of elections shall be completed within two weeks from the date such petitions are presented.

(2) If the office is a district office comprised of two or more counties, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of registered voters in the district as reflected by the voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification and deadline

for submission to the county board shall be the same as specified in (1) above.

(3) If the office is a county office or a single county legislative district, file written petitions with the chairman or director of the county board of elections supporting his candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the county equal in number to four percent (4%) of the total number of registered voters in the county as reflected by the voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held, except if the office is for a district consisting of less than the entire county and only the voters in that district vote for that office, the petitions must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of voters in the district according to the voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held. Each petition shall be presented to the chairman or director of the county board of elections. The chairman shall examine, or cause to be examined, the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(4) If the office is a partisan municipal office, file written petitions with the chairman or director of the county board of elections in the county wherein the municipality is located supporting his candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163-296 and must be signed by the number of qualified voters specified in G.S. 163-296. The procedure for certification shall be the same as specified in (1) above.

Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of elections with which the petitions have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with ~~G.S. 163-140.~~ Article 14A of this Chapter.

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year."

SECTION 22. G.S. 163-182.15(b) reads as rewritten:

"(b) Issued by State Board of Elections. – In ballot items within the jurisdiction of the State Board of Elections, the State Board of Elections shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the State Board six days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

(1) The certificate shall be issued 10 days after the final decision of the State Board on the election protest, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to ~~G.S. 163-14.~~ G.S. 163-182.14.

(2) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(3) The certificate shall be issued immediately upon the filing of a copy of the determination of the General Assembly with the State Board of Elections in contested elections involving any elective office established by Article III of the Constitution.

(4) No certificate of election need be issued for any member of the General Assembly following a contest of the election pursuant to Article 3 of Chapter 120."

SECTION 23. G.S. 163-278.14 reads as rewritten:

"§ **163-278.14. No contributions in names of others; no anonymous contributions; contributions in excess of ~~one hundred dollars.~~ fifty dollars; no contribution without specific designation of contributor.**

(a) No individual, political committee, or other entity shall make any contribution anonymously or in the name of another. No candidate, political committee, referendum committee, political party, or treasurer shall knowingly accept any contribution made by any individual or person in the name of another individual or person or made anonymously. If a candidate, political committee, referendum committee, political party, or treasurer receives anonymous contributions or contributions determined to have been made in the name of another, he shall pay the money over to the Board, by check, and all such moneys received by the Board shall be deposited in the Civil Penalty and Forfeiture Fund of the State of North Carolina.

(b) No entity shall make, and no candidate, committee or treasurer shall accept, any monetary contribution in excess of fifty dollars ($50.00) unless such contribution is in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. No contribution in the form of check, draft, money order, credit card charge, debits, or other noncash method may be made or accepted unless it contains a specific designation of the intended contributee chosen by the contributor. The State Board of Elections may prescribe guidelines as to the reporting and verification of any method of contribution payment allowed under this Article. For contributions by money order, the State Board shall prescribe methods to ensure an audit trail for every contribution so that the identity of the contributor can be determined. For a contribution made by credit card, the credit card account number of a contributor is not a public record.

(c) No political committee or referendum committee shall make any contribution unless in doing so it reports to the recipient the contributor's name as required in G.S 163-278.7(b)(1)."

SECTION 24. G.S. 166A-46 reads as rewritten:

"§ **166A-46. Liability.**

Officers or employees of a party state rendering aid in another state pursuant to this Compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this Compact shall be liable for any act or omission ~~occuring~~ occurring as a result of a good faith attempt to render aid or as a result of the use of any equipment or supplies used in connection with an attempt to render aid. For the

purposes of this Article, "good faith" does not include willful misconduct, gross negligence, or recklessness."

PART II. OTHER CHANGES

SECTION 25.(a) G.S. 7A-133(a), as amended by S.L. 2007-323, reads as rewritten:

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

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

10	17	Wake
11	10	Harnett
		Johnston
		Lee
12	10	Cumberland
13	6	Bladen
		Brunswick
		Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes
		Surry
18	14	Guilford
19A	4	Cabarrus
19B	7	Montgomery
		Moore
		Randolph
19C	5	Rowan
20A	4	Stanly
		Anson
		Richmond
20B	1	(part of Union
		see subsection (b))
20C	2	(part of Union
		see subsection (b))
20D	1	Union
21	10	Forsyth
22	9	Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	9	Burke
		Caldwell
		Catawba

26	19	Mecklenburg
27A	7	Gaston
27B	5	Cleveland
		Lincoln
28	7	Buncombe
29A	3	McDowell
		Rutherford
29B	4	Henderson
		Polk
		Transylvania
30	6	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

SECTION 25.(b) The additional district court judgeship created for District Court District 20B in Section 14.4(a) of S.L. 2006-66 is reassigned to District Court District 20D, as established in subsection (a) of this section.

SECTION 25.(c) G.S. 7A-200 reads as rewritten:

"§ **7A-200. District and set of districts defined; chief district court judges and their authority.**

(a) In this section:

(1) "District" means any district court district established by G.S. 7A-133 which consists exclusively of one or more entire counties;

(2) "Set of districts" means any set of two or more district court districts established under G.S. 7A-133, none of which consists exclusively of one or more entire counties, but both or all of which include territory from the same county or counties and together comprise all of the territory of that county or those counties; "set of districts" also means a set of three district court districts in one county, one consisting of the entire county and the other two consisting of parts of that county; and

(3) "Chief district court judge" means in the case of a set of districts, the chief district court judge for those districts, designated by the chief justice from among the district court judges for the districts in the set of districts.

(b) Whenever by law a duty is imposed upon the chief district court judge, it means for a set of districts the chief district court judge designated under subsection (a)(3) of this section."

SECTION 25.5. G.S.7A-177(b) reads as rewritten:

"(b) ~~Training~~ In addition to the basic training course required under subsection (a) of this section, continuing education courses shall be provided at such times and locations as necessary to assure that they are conveniently available to all magistrates without extensive travel to other parts of the State. ~~Courses shall be provided in Asheville for the magistrates from the western region of the State.~~"

SECTION 26.(a) G.S. 7B-1111(a)(10), as enacted by Section 1 of S.L. 2007-151, reads as rewritten:

"(10) Where the juvenile has been relinquished to a county department of social services or a licensed child-placing agency for the purpose of adoption or placed with a prospective adoptive parent for adoption; the consent or relinquishment to adoption by the parent has become irrevocable except upon a showing of fraud, duress, or other circumstance as set forth in G.S. 48-3-609 or G.S. 48-3-707; termination of parental rights is a condition precedent to adoption in the jurisdiction where the adoption ~~preceding~~ proceeding is to be filed; and the parent does not contest the termination of parental rights."

SECTION 26.(b) This section becomes effective October 1, 2007, and applies to motions in the cause or petitions filed on or after that date.

SECTION 27. Article 1 of Chapter 10B of the General Statutes is amended by adding a new section to read:

"**§ 10B-70. Certain notarial acts for local government agencies validated.**

Any acknowledgment taken and any instrument notarized for a local government agency by a person prior to qualification as a notary public but after commissioning or recommissioning as a notary public, by a person whose notary commission has expired, or by a person who failed to qualify within 45 days of commissioning as required by G.S. 10B-10, is hereby validated. The acknowledgment and instrument shall have the same legal effect as if the person qualified as a notary public at the time the person performed the act. This section shall apply to notarial acts performed for a local government agency on or after October 31, 2006, and before June 30, 2007."

SECTION 28.(a) G.S. 84-2 reads as rewritten:

"**§ 84-2. Persons disqualified.**

No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney, public defender, assistant public defender, clerk, deputy or assistant clerk of the General Court of Justice, register of deeds, deputy or assistant register of deeds, sheriff or deputy sheriff shall engage in the private practice of law. Persons violating this provision shall be guilty of a Class 3 misdemeanor and only fined not less than two hundred dollars ($200.00)."

SECTION 28.(b) This section becomes effective December 1, 2007, and applies offenses committed on or after that date.

SECTION 29.(a) G.S. 115D-5(a) reads as rewritten:

"(a) The State Board of Community Colleges may adopt and execute such policies, regulations and standards concerning the establishment, administration, and operation of institutions as the State Board may deem necessary to insure the quality of educational programs, to promote the systematic meeting of educational needs of the State, and to provide for the equitable distribution of State and federal funds to the several institutions.

The State Board of Community Colleges shall establish standards and scales for salaries and allotments paid from funds administered by the State Board, and all employees of the institutions shall be exempt from the provisions of the State Personnel Act. The State Board shall have authority with respect to individual institutions: to approve sites, ~~buildings, building plans,~~capital improvement projects, budgets; to approve the selection of the chief administrative officer; to establish and administer standards for professional personnel, curricula, admissions, and graduation; to regulate the awarding of degrees, diplomas, and certificates; to establish and regulate student tuition and fees within policies for tuition and fees established by the General Assembly; and to establish and regulate financial accounting procedures.

The State Board of Community Colleges shall require all community colleges to meet the faculty credential requirements of the Southern Association of Colleges and Schools for all community college programs."

SECTION 29.(b) G.S. 115D-15.1 reads as rewritten:

"§ **115D-15.1. Disposition, acquisition, and construction of property by community college.**

(a) Disposition. – Notwithstanding the provisions of G.S. 115D-14, 115D-15, and 160A-274, the board of trustees of a community college may, in connection with additions, improvements, renovations, or repairs to all or part of its property, lease, sell, or otherwise dispose of any of its property to the county in which the property is located for any price and on any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(b) Transfer. – An agreement under subsection (a) of this section shall require the county to transfer the property back to the board of trustees of the community college when any financing agreement entered into by the county to finance the additions, improvements, renovations, and repairs has been satisfied. ~~If the county did not enter into a financing agreement, the agreement under subsection (a) of this section shall require the county to transfer the property back to the board of trustees of the community college upon the completion of the additions, improvements, renovations, and repairs.~~

Notwithstanding the transfer of property to the county, the provisions of subsection (d) of this section, G.S. 143-129, and G.S. 143-341 apply to the capital improvement project.

(c) Acquisition and Construction. – Notwithstanding the provisions of G.S. 115D-14 and G.S. 115D-20(3), the board of trustees of a community college may acquire, by any lawful method, any interest in real or personal property ~~from~~ in the county in which the community college is located or in its service delivery area for use by the board of ~~trustees and~~trustees. The board of trustees may contract for the construction, equipping, expansion, improvement, renovation, repair, or otherwise making available for use by the board of trustees of the community college of all or part of the property upon any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(d) Approval. – The actions of a board of trustees of a community college taken pursuant to this section are subject to the approval of the State Board of Community Colleges.

(e) Contract Responsibility. – A county's obligations under a financing contract entered into by the county to finance improvements to real or personal property pursuant to this section shall be the responsibility of the county and not the responsibility of the board of trustees of the community college."

SECTION 29.(c) G.S. 115D-54(a) reads as rewritten:

"(a) ~~On or before the first day of May of each year,~~By a date determined by the State Board, trustees of each institution shall prepare for submission a budget request as provided in G.S. 115D-54(b) on forms provided by the State Board of Community Colleges. The budget shall be based on estimates of available funds if provided by the funding authorities or as estimated by the institution. The State Current Fund shall be based on available funds. All other funds shall be based on needs as determined by the board of trustees and shall include the following:

(1) State Current Fund.

(2) County Current Fund.

(3) Institutional Fund.

(4) Plant Fund."

SECTION 29.(d) G.S. 115D-55(a) reads as rewritten:

"(a) Approval of Budget by Local Tax-Levying Authority. – ~~Not later than May 15, or such later date as may be~~By a date fixed by the local tax-levying authority, the budget shall be submitted to the local tax-levying authority for approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1, or such later date as may be agreeable to the board of trustees, but in no instance later than September 1, the local tax-levying authority shall determine the amount of county revenue to be appropriated to an institution for the budget year. The local tax-levying authority may allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges.

The local tax-levying authority shall have full authority to call for all books, records, audit reports, and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the local tax-levying authority to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto."

SECTION 29.(e) G.S. 115D-58.15(a) reads as rewritten:

"(a) Authority. – The board of trustees of a community college may use lease purchase or installment purchase contracts to purchase or finance the purchase of equipment as provided in this section. A college shall not have more than five State-funded contracts in effect at any one time."

SECTION 29.(f) This section becomes effective October 1, 2007.

SECTION 29.5.(a) G.S. 115D-31.3(j) reads as rewritten:

"(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is located:

(1) Is designated as a Tier 1 ~~or Tier 2~~ county in accordance with ~~G.S. 105-129.3;~~G.S. 143B-437.08;

(2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar year; and

(3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

SECTION 29.5.(b) This section is effective January 1, 2008.

SECTION 30. G.S. 116-238.5 is repealed.

SECTION 31. The second G.S. 120-36.15, enacted by Section 3 of S.L. 2007-78, is recodified as G.S. 120-36.16.

SECTION 31.7. G.S. 130A-498(c), as enacted by Section 2 of S.L. 2007-193, reads as rewritten:

"(c) As used in this Part, 'local government' means any local political subdivision of this State, any airport authority, or any authority or body created by any ~~ordinance~~ ordinance, joint resolution, or rules of any such entity."

SECTION 32.(a) G.S. 143B-434.1(c), as amended by S.L. 2007-67, reads as rewritten:

"(c) The Board shall consist of 29 members as follows:

(1) The Secretary of Commerce, who shall not be a voting member.

(2) The Director of the Division of Tourism, Film, and Sports Development, who shall not be a voting member.

(3) Two members designated by the Board of Directors of the ~~North Carolina Hotel and Motel Association.~~ North Carolina Restaurant and Lodging Association, representing the lodging sector.

(4) Two members designated by the Board of Directors of the ~~North Carolina Restaurant Association.~~ North Carolina Restaurant and Lodging Association, representing the restaurant sector.

(5) Three Directors of Convention and Visitor Bureaus designated by the Board of Directors of the North Carolina Association of Convention and Visitor Bureaus.

(6) The Chairperson of the Travel and Tourism Coalition.

(7) The President of the ~~Travel Council of North Carolina.~~North Carolina Travel Industry Association.

(8) A member designated by the Board of Directors of the ~~Travel Council of North Carolina.~~North Carolina Travel Industry Association.

(9) The President of North Carolina Citizens for Business and Industry.

(10) One member designated by the North Carolina Petroleum Marketers Association.

(11) One person associated with tourism attractions in North Carolina, appointed by the Speaker of the House of Representatives. One person who is not a member of the General Assembly, appointed by the Speaker of the House of Representatives.

(12) One person associated with the tourism-related transportation industry, appointed by the President Pro Tempore of the Senate. One person who is not a member of the General Assembly, appointed by the President Pro Tempore of the Senate.

(13) Four public members each interested in matters relating to travel and tourism, two appointed by the Governor (one from a rural area and one from an urban area), one appointed by the Speaker of the House, and one appointed by the President Pro Tempore of the Senate.

(14) One member associated with the major cultural resources and activities of the State in North Carolina, appointed by the Governor.

(15) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(16) Two members of the Senate, appointed by the President Pro Tempore of the Senate.

(17) Two members designated by the Board of Directors of North Carolina Watermen United who represent the charter boat/headboat industry."

SECTION 32.(b) G.S. 143B-434.1(d) reads as rewritten:

"(d) The members of the Board shall serve the following terms: the Secretary of Commerce, the Director of the Division of Tourism, Film, and Sports Development, the

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

SECTION 33.(a) G.S. 143B-437.10 is recodified in Part 2 of Article 10 of Chapter 143B of the General Statutes as G.S. 143B-437.010.

SECTION 33.(b) G.S. 105-129.81(1) reads as rewritten:

"(1) Agrarian growth zone. – Defined in ~~G.S. 143B-437.10.~~G.S. 143B-437.010."

SECTION 33.(c) This section becomes effective July 1, 2007.

SECTION 34. G.S. 143C-6-6 reads as rewritten:

"(c) ~~This~~ Subsection (a) of this section does not apply to The University of North Carolina."

SECTION 34.5. G.S. 147-64.7(a) reads as rewritten:

"(a) Access to Persons and Records. –

(1) The Auditor and ~~his~~the Auditor's authorized representatives shall have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any State agency. The review of State tax returns shall be limited to matters of official business and the Auditor's report shall not violate the confidentiality provisions of tax laws. Notwithstanding confidentiality provisions of tax laws, the Auditor may use and disclose information related to overdue tax debts in support of the Auditor's statutory mission.

(2) The Auditor and ~~his~~ the Auditor's duly authorized representatives shall have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation which is in the possession of any individual, private corporation, institution, association, board, or other organization which pertain to:

a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.

b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State. In order to determine that payments to providers of social and medical services are legal and proper, the providers of such services will give the Auditor, or ~~his~~ the Auditor's authorized representatives, access to the records of recipients who receive such services."

SECTION 35. Section 5 of S.L. 2005-198 reads as rewritten:

"**SECTION 5.** This act is effective when it becomes law. Section 1 of this act applies to provisional teaching certificates issued on or after that date. ~~Sections 2, 3, and 4 of this act expire July 1, 2011.~~"

SECTION 35.5. Section 2.66 of S.L. 2005-421 reads as rewritten:

"**SECTION 2.66.** Ray West of Chatham County is appointed to the ~~State Board of Therapeutic Recreation Certification~~North Carolina Recreational Therapy Licensure Board for a term expiring on ~~June 30, 2007.~~June 30, 2008."

SECTION 36. Section 93(c) of S.L. 2006-264 is repealed.

SECTION 37. Section 98 of S.L. 2006-264 reads as rewritten:

"**SECTION 98.** Section 4 of ~~S.L.2005-360~~ S.L. 2005-350 is repealed."

SECTION 38. The lead-in language of Section 6 of S.L. 2007-97 reads as rewritten:

"**SECTION 6.** ~~G.S. 108-27.4(e)(7)~~ G.S. 108A-27.4(e)(7) reads as rewritten:".

SECTION 39. The lead-in language of Section 1.2 of S.L. 2007-106 reads as rewritten:

"**SECTION 1.2.** G.S. 32A-14 ~~is amended by adding a new subsection to read:~~reads as rewritten:".

SECTION 40. Section 2 of S.L. 2007-112 reads as rewritten:

"**SECTION 2.** Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground, rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by the following:

(1) Religious organizations.
(2) Educational organizations.
(3) Any business that offers to rent fewer ~~then~~ than five units.
(4) Summer camps.
(5) Charitable, benevolent, and other nonprofit organizations."

SECTION 41. Section 1.(b) of S.L. 2007-113 reads as rewritten:

"**SECTION 1.(b)** To provide for the continuity of degree-granting authority and participation with the State ~~Assistance Education~~ Education Assistance Authority:

(1) Notwithstanding G.S. 116-15 and anything else to the contrary, CMC-NorthEast, Inc., or any successor, may continue to operate under this section in the same manner as private nonprofit corporations, and further may maintain in connection and as part of the hospital and education programs for nursing and health sciences, presently known as Cabarrus College of Health Sciences, which may continue to award associate degrees, baccalaureate degrees, and advanced degrees, as appropriate and as obtained by its students.
(2) Notwithstanding G.S. 116-21, 116-21.4, 116-22(1), 116-43.5 and any and all rules promulgated thereunder, and anything else to the contrary, Cabarrus College of Health Sciences shall continue to qualify for participation as an "approved institution" and otherwise remain eligible to receive the North Carolina Legislative Tuition Grants through the North Carolina State Education Assistance Authority.

(3) Notwithstanding G.S. 116-19, 116-20, 116-21, 116-21.1, and 116-22(1), and any and all rules promulgated thereunder, and anything else to the contrary, Cabarrus College of Health Sciences shall continue to qualify for participation as an "approved institution" and otherwise remain eligible to receive the North Carolina State Contractual Scholarship Funds Grants through the North Carolina State Education Assistance Authority."

SECTION 41.5. Section 8 of S.L. 2007-164 reads as rewritten:

"**SECTION 8.** Section 7 of this act becomes effective July 1, 2008.~~This~~ The remainder of this act becomes effective July 1, 2007."

SECTION 42.(a) Section 12 of Session Law 2007-213 reads as rewritten:

"**SECTION 12.** G.S. 14-208.45 reads as rewritten:

"§ **14-208.45. Fees.**

(a) ~~There shall be~~Except as provided in this section, each person required to enroll pursuant to this Part shall pay a one-time fee of ninety dollars ~~($90.00) assessed to each person required to enroll pursuant to this Part.~~($90.00). The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Department of Correction. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system.

(b) When a court determines a person is required to enroll pursuant to G.S. 14-208.40A or G.S. 14-208.40B, the~~The~~ court may exempt a person from paying the fee required by subsection (a) of this section only for good cause and upon motion of the person ~~placed on~~ required to enroll in satellite-based monitoring. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods.~~methods if the officer is authorized by subsection (c) of this section to determine the payment schedule. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system.~~

~~(b) The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Department of Correction.~~

~~(c) If a person placed on supervised probation, parole, or post-release supervision is required as a condition of that probation, parole, or post-release supervision to pay any moneys to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule.~~"

SECTION 42.(b) Effective July 11, 2007, Section 15 of Session Law 2007-213 reads as rewritten:

"**SECTION 15.** Section 2 of this act becomes effective December 1, 2007, and applies to sentences entered on or after that date. Section 6 of this act becomes effective December 1, 2007, and applies to offenses committed on or after that date. Sections 7, 8, and 9 of this act become effective December 1, 2007, and apply to persons placed on probation, parole, or post-release supervision on or after that date. ~~Section 9A becomes~~Sections 1, 3, 4, 5, 11, 12, and 13 of this act become effective December 1, 2007. The remainder of this act is effective when it becomes law."

SECTION 43. The lead-in language of Section 6 of S.L. 2007-224 reads as rewritten:

"**SECTION 6.** ~~G.S. 160-215(g)~~ G.S. 160A-215(g) reads as rewritten:".

SECTION 43.5. Section 10 of S.L. 2007-298 reads as rewritten:

"**SECTION 10.** Part I of this act becomes effective January 1, 2008, and applies to violations occurring on or after that date. ~~Sections~~ Section 7.4 applies to failure to submit license renewal applications on or after October 1, 2007. ~~and 7.5 apply to renewal applications submitted~~ Section 7.5 applies to failure to submit annual verifications of status on or after October 1, 2007. ~~Section~~Sections 9 and 10 and Parts II, III, V, and VIII are effective when the bill becomes law. The remainder of the act becomes effective October 1, ~~2007,~~ 2007. ~~and applies to policies issued or renewed on or after that date.~~"

SECTION 43.7.(a) If Section 1.2 of House Bill 627, 2007 Regular Session, becomes law, G.S. 112C-115.4(b)(5), as enacted by Section 1.2 of House Bill 627, is repealed.

SECTION 43.7.(b) If Section 1.2 of House Bill 627, 2007 Regular Session, becomes law, G.S. 122C-115.4(b)(5), as enacted by Section 10.49(l) of S.L. 2007-323, reads as rewritten:

"(b) The primary functions of an LME include all of the following:

…

(5) Care coordination and quality management. This function involves individual client care decisions at critical treatment junctures to assure clients' care is coordinated, received when needed, likely to produce good outcomes, and is neither too little nor too much service to achieve the desired results. Care coordination is sometimes referred to as "care management." Care coordination shall be provided by clinically trained professionals with the authority and skills necessary to determine appropriate diagnosis and treatment, approve treatment and service plans, when necessary to link clients to higher levels of care quickly and efficiently, to facilitate the resolution of disagreements between providers and clinicians, and to consult with providers, clinicians, case managers, and utilization reviewers. Care coordination activities for high-risk/high-cost consumers or consumers at a critical treatment juncture include the following:

a. Assisting with the development of a single care plan for individual clients, including participating in child and family teams around the development of plans for children and adolescents.
b. Addressing difficult situations for clients or providers.
c. Consulting with providers regarding difficult or unusual care situations.
d. Ensuring that consumers are linked to primary care providers to address the consumer's physical health needs.
e. Coordinating client transitions from one service to another.
f. ~~Customer~~ Conducting customer service interventions.
g. Assuring clients are given additional, fewer, or different services as client needs increase, lessen, or change.
h. Interfacing with utilization reviewers and case managers.
i. Providing leadership on the development and use of communication protocols.
j. Participating in the development of discharge plans for consumers being discharged from a State facility or other

inpatient setting who have not been previously served in the community.

…."

SECTION 43.7.(c) If House Bill 627, 2007 Regular Session, becomes law, Section 3 of that act reads as rewritten:

"**SECTION 3.** Sections 2.1 through 2.3 and Section 3 of this act become effective October 1, 2007. Sections 1.4 and 2.5 of this act apply to appointments made on and after October 1, 2007. Section 1.2 of this act becomes effective July 1, 2007. The remainder of this act is effective when it becomes law."

SECTION 43.7.(d) This section becomes effective July 1, 2007.

SECTION 43.7C. If House Bill 820, 2007 Regular Session, becomes law, Section 7.(a) of House Bill 820 reads as rewritten:

SECTION 7.(a) Except as provided in subsection (b) of this section, this act becomes effective when it becomes law and applies to any petition for a certificate for a transfer of surface water from one river basin to another river basin ~~first made~~for which preparation of an environmental assessment or an environmental impact statement has begun on or after ~~that date.~~the date on which this act becomes law.

SECTION 43.7E. Section 2 of House Bill 956, 2007 Regular Session, Ratified Version, is amended by deleting "G.S. 115C-325(5a)" and substituting "G.S. 115C-325(a)(5a)."

SECTION 43.7J. If House Bill 1094, 2007 Regular Session, becomes law, then G.S. 14-440.1(c), as amended by House Bill 1094, reads as rewritten:

"(c) Penalty. – A violation of subsection (b) of this section is punishable as follows:

(1) Unless the conduct is covered under some other provision of law providing greater punishment, any person convicted of a violation of subsection (b) of this section is guilty of:

a. A Class I felony, if the violation is a first offense under this section, with a minimum fine of two thousand five hundred dollars ($2,500).

b. A Class I felony, if the violation is a second or subsequent offense under this section, with a minimum fine of five thousand dollars ($5,000).

(2) If a person is convicted of ~~any~~ a violation of subsection (b) of this section, the court, in its judgment of conviction, shall order the forfeiture and destruction or other disposition of the following:

a. All unauthorized copies of motion pictures or other audiovisual works, or any parts thereof.

b. All implements, devices, and equipment used or intended to be used in connection with the offense."

SECTION 43.7T.(a) If House Bill 1499, 2007 Regular Session, becomes law, Section 1.3 reads as rewritten:

"**SECTION 1.3.** Section 1.1 of this ~~act~~ Part is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of this ~~section~~ Part is effective when it becomes law."

SECTION 43.7T.(b) If House Bill 1499, 2007 Regular Session, becomes law, Section 2.6 reads as rewritten:

"**SECTION 2.6.** This ~~section~~ Part is effective for taxes imposed for taxable years beginning on or after July 1, 2008."

SECTION 43.7T.(c) If House Bill 1499, 2007 Regular Session, becomes law, Section 3.2 reads as rewritten:

"**SECTION 3.2.** This ~~section~~ Part is effective for taxes imposed for taxable years beginning on or after July 1, 2008."

SECTION 43.7T.(d) If House Bill 1499, 2007 Regular Session, becomes law, Section 4.3 reads as rewritten:

"**SECTION 4.3.** This ~~section~~ Part is effective when it becomes law."

SECTION 43.7T.(e) If House Bill 1499, 2007 Regular Session, becomes law, then that act is amended by adding a new section to read:

"**SECTION 5.** Except as otherwise provided, this act is effective when it becomes law."

SECTION 43.8.(a) If House Bill 1517, 2007 Regular Session, becomes law, then G.S. 163-278.96(17), as enacted by House Bill 1517, reads as rewritten:

"(17) Trigger for matching funds. – The dollar amount at which matching funds are released under G.S. 163-278.99B for certified candidates. In the case of a contested primary, the trigger equals the maximum qualifying contributions for the candidate. In the case of a contested general election, the trigger equals the base level of funding available under ~~G.S. 163-278.99(b)(2).~~G.S. 163-278.99(b)(4)."

SECTION 43.8.(b) If House Bill 1517, 2007 Regular Session, becomes law, then G.S. 163-278.99B(c) as enacted by House Bill 1517, reads as rewritten:

"(c) Limit on Matching Funds in Contested General Election. – Total matching funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in ~~G.S. 163-278.99(b)(2).~~G.S. 163-278.99(b)(4)."

SECTION 43.8.(c) If House Bill 1517, 2007 Regular Session, becomes law, Section 6 of House Bill 1517 is rewritten to read:

"**SECTION 6.** Sections 1 through 3 of this act ~~become~~ are effective ~~30 days after this act is given preclearance under section 5 of the Voting Rights Act of 1965.~~ when this act becomes law. For purposes of the 2008 election, the beginning date for the voluntary funding limitation as enacted in G.S. 163-278.98(e)(1) and (2) in Section 1 of this act shall be set administratively by the State Board of Elections. This act applies to elections for Auditor, Superintendent of Public Instruction, and Commissioner of Insurance in 2008 and thereafter. Section 5 of this act becomes effective July 1, 2007. The State Board of Elections shall make the kind of report required in G.S. 163-278.97(c), as enacted in this act, as soon as feasible before the 2008 election. The State Board of Elections shall make the determination required in G.S. 163-278.99(b), as enacted in this act, as soon as feasible before the 2008 election. The remainder of this act is effective when it becomes law."

SECTION 43.8G.(a) If House Bill 1817, 2007 Regular Session, becomes law, then G.S. 53-243.10(8), as enacted by House Bill 1817, reads as rewritten:

'(8) In transactions where the broker has the ability to make credit decisions, use reasonable means to provide the borrower with prompt credit decisions on its loan applications and, where the credit is denied, to comply fully with the notification requirements of applicable state and federal law.'

SECTION 43.8G.(b) If House Bill 1817, 2007 Regular Session, becomes law, then G.S. 53-243.10(10), as enacted by House Bill 1817, is repealed.

SECTION 43.8G.(c) This section is effective January 1, 2008.

SECTION 43.8.(d) If House Bill 1517, 2007 Regular Session, becomes law, G.S. 163-278.99B, as enacted by Section 1 of that bill, is amended by adding a new subsection to read:

(e) Proportional Measuring of Multicandidate Communications. – In calculating the amount of matching funds a certified candidate is eligible to receive under this section, the Board shall include the proportion of expenditures, obligations, or payments for multicandidate communications that pertains to the candidate.

SECTION 43.9. If Senate Bill 1435, 2007 Regular Session, becomes law, then the statutory reference in Section 7 of that act is amended by deleting '**90-210.29A-1.**' and substituting '**90-210.29B.**'

SECTION 44. If Senate Bill 1482, 2007 Regular Session, becomes law, then its title is amended by deleting "G.S. 163-102.6" and substituting "G.S. 136-102.6".

SECTION 44.5. If Senate Bill 1527, 2007 Regular Session, becomes law, then G.S. 58-71-165, as enacted by Senate Bill 1527, reads as rewritten:

"§ **58-71-165. ~~Monthly report~~ Report required.**

(a) Each professional bail bondsman shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance.

(b) Each insurer that appoints surety bondsmen in this State shall file with the Commissioner a written report in a form adopted by the Commissioner regarding all bail bonds on which the insurer is liable as of the last day of each calendar quarter showing the total dollar amount for which the insurer is liable. The report shall be filed on or before the fifteenth day following the end of each calendar quarter.

(c) The reports required by ~~subsections (a) and (b)~~ subsection (a) of this section shall be filed on or before the fifteenth day of each month.

(d) Any person who knowingly and willfully falsifies a report required by this section is guilty of a Class I felony."

SECTION 45. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:23 p.m. on the 30th day of August, 2007.

Session Law 2007-485 **Senate Bill 646**

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR WORKING WATERFRONT PROPERTY, TO ESTABLISH THE ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS, TO MAKE EXPANDED PUBLIC ACCESS TO COASTAL WATERS A PRIORITY IN PLANNING STATE ROAD PROJECTS, TO INCREASE FEES FOR VESSEL TITLING, TO WAIVE PERMIT FEES FOR EMERGENCY COASTAL AREA MANAGEMENT ACT PERMITS, AND TO DIRECT A STUDY OF

CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES, AS RECOMMENDED BY THE WATERFRONT ACCESS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. PROPERTY TAX RELIEF FOR WORKING WATERFRONT PROPERTY.

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"**§ 105-277.14. Taxation of working waterfront property.**

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

(1) Coastal fishing waters. – Defined in G.S. 113-129.

(2) Commercial fishing operation. – Defined in G.S. 113-168.

(3) Fish processing. – Processing fish, as defined in G.S. 113-129, for sale.

(4) Working waterfront property. – Any of the following property that has, for the most recent three-year period, produced an average gross income of at least one thousand dollars ($1,000):

a. A pier that extends into coastal fishing waters and limits access to those who pay a fee.

b. Real property that is adjacent to coastal fishing waters and is primarily used for a commercial fishing operation or fish processing, including adjacent land that is under improvements used for one of these purposes.

(b) Classification. – Working waterfront property is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed on the basis of the value of the property in its present use rather than on its true value. Working waterfront property includes land reasonably necessary for the convenient use of the property.

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

(d) Application. – To obtain the benefit of this section, the owner of working waterfront property must submit an application for classification and exclusion to the assessor of the county in which the property is located, and the assessor must approve the application. An application must contain the information and be in the form required

by the assessor. An initial application must be filed during the regular listing period of the year for which the benefit of this classification is first claimed or within 30 days of the date shown on a notice of change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred or becomes ineligible for classification under this section."

PART II. ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS.

SECTION 2.1. There is established the Advisory Committee for the Coordination of Waterfront Access within the Department of Environment and Natural Resources. The Advisory Committee shall be composed of the following members:

(1) The Secretary of Environment and Natural Resources or the Secretary's designee, Chair.
(2) The Director of the Division of Coastal Management of the Department of Environment and Natural Resources or the Director's designee.
(3) The Director of the Division of Parks and Recreation of the Department of Environment and Natural Resources or the Director's designee.
(4) The Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources or the Director's designee.
(5) The Director of the Division of Aquariums of the Department of Environment and Natural Resources or the Director's designee.
(6) The Executive Director of the Wildlife Resources Commission or the Executive Director's designee.
(7) A representative of the State Property Office appointed by the Secretary of Administration.
(8) The Executive Director of North Carolina Sea Grant.
(9) One local government representative appointed by the North Carolina League of Municipalities.
(10) One local government representative appointed by the North Carolina Association of County Commissioners.

SECTION 2.2. The Advisory Committee for the Coordination of Waterfront Access shall:

(1) Develop a coordinated plan for providing greater waterfront access in the State. This plan shall specifically address geographic diversity of waterfront access, diversity of types of waterfront access, and funding for waterfront access. The entities represented on the Advisory Committee shall adhere to the plan to the maximum extent practicable.
(2) Develop recommendations for increasing and improving waterfront access in the State.

SECTION 2.3. The Advisory Committee shall report its progress in implementing this Part, including any recommendations developed pursuant to this Part, to the Joint Legislative Commission on Seafood and Aquaculture no later than October 1 of each year. The first report required by this section shall be submitted no later than October 1, 2008.

PART III. DIRECT THE DEPARTMENT OF TRANSPORTATION TO EXPAND PUBLIC ACCESS TO COASTAL WATERS.

SECTION 3.1. G.S. 136-18 is amended by adding a new subdivision to read:

"(40) To expand public access to coastal waters in its road project planning and construction programs. The Department shall work with the Wildlife Resources Commission, other State agencies, and other government entities to address public access to coastal waters along the roadways, bridges, and other transportation infrastructure owned or maintained by the Department. The Department shall adhere to all applicable design standards and guidelines in implementation of this enhanced access. The Department shall report on its progress in expanding public access to coastal waters to the Joint Legislative Commission on Seafood and Aquaculture and to the Joint Legislative Transportation Oversight Commission no later than March 1 of each year."

SECTION 3.2. The first report required by G.S. 136-18, as enacted by this section, is due no later than March 1, 2008.

PART IV. INCREASE BOATING FUNDING.

SECTION 4.1. G.S. 75A-3(c) reads as rewritten:

"(c) The Boating Account is established within the Wildlife Resources Fund created under G.S. 143-250. Interest and other investment income earned by the Account accrues to the Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the Executive Budget Act and the Personnel Act, for the administration and enforcement of this Chapter; for activities relating to boating and water safety including education and waterway marking and improvement; and for boating access area acquisition, development, and maintenance. The Commission shall use at least three dollars ($3.00) of each one-year certificate of number fee and at least nine dollars ($9.00) of each three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 for boating access area acquisition, development, and maintenance."

SECTION 4.2. G.S. 75A-5(a) reads as rewritten:

"(a) Application for Certificate of Number and Fees. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a ~~fee of ten dollars ($10.00)~~ fee. The fee is fifteen dollars ($15.00) for a one-year period or ~~by a fee of twenty-five dollars ($25.00)~~ forty dollars ($40.00) for a three-year ~~period; provided, however, there shall be no fee charged for~~ period. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its

records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation."

SECTION 4.3. G.S. 75A-5(c) reads as rewritten:

"(c) Change of Ownership. – Should the ownership of a vessel change, a new application form with a fee ~~of ten dollars ($10.00) for a one-year period or by a fee of twenty-five dollars ($25.00) for a three-year period~~ in the amount set in subsection (a) of this section shall be filed with the Commission and a new certificate bearing the same identification number shall be awarded to the new owner in the same manner as an original certificate of number. Possession of the certificate shall in cases involving prosecution for violation of any provision of this Chapter be prima facie evidence that the person whose name appears on the certificate is the owner of the vessel referred to on the certificate."

SECTION 4.4. G.S. 75A-5(h) reads as rewritten:

"(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number pursuant to this Chapter shall renew the certificate on or before the first day of the month after which the certificate expires; otherwise, the certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee ~~of ten dollars ($10.00) for a one-year period or by a fee of twenty-five dollars ($25.00) for a three-year period; provided, there shall be no fee~~ in the amount set in subsection (a) of this section. No fee is required for a period of one year for renewal of certificates of number that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section."

PART V. WAIVER OF FEES FROM CAMA EMERGENCY PERMITS.

SECTION 5. G.S. 113A-118(f) reads as rewritten:

"(f) The Secretary may issue special emergency permits under this Article. These permits may only be issued in those extraordinary situations in which life or structural property is in imminent danger as a result of storms, sudden failure of man-made structures, or similar occurrence. These permits may carry any conditions necessary to protect the public interest, consistent with the emergency situation and the impact of the proposed development. If an application for an emergency permit includes work beyond that necessary to reduce imminent dangers to life or property, the emergency permit shall be limited to that development reasonably necessary to reduce the imminent danger; all further development shall be considered under ordinary permit procedures. This emergency permit authority of the Secretary shall extend to all development in areas of environmental concern, whether major or minor development, and the mandatory notice provisions of G.S. 113A-119(b) shall not apply to these emergency

permits. To the extent feasible, these emergency permits shall be coordinated with any emergency permits required under G.S. 113-229(e1). The fees associated with any permit issued pursuant to this subsection or rules adopted pursuant to this subsection shall be waived."

PART VI. STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES.

SECTION 6. The Division of Emergency Management of the Department of Crime Control and Public Safety shall study ways to facilitate the construction and repair of water dependent structures such as fish processing and packing facilities and boat repair and building facilities located in regulated flood zones. The Division shall report the results of its study, including any recommendations, to the Joint Legislative Commission on Seafood and Aquaculture by March 1, 2008.

PART VII. EFFECTIVE DATE.

SECTION 7. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2009. Sections 4.1 through 4.4 of this act become effective January 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:25 p.m. on the 30th day of August, 2007.

Session Law 2007-486 **House Bill 291**

AN ACT PROVIDING FOR HOW THE STATE TREASURER SHALL ADDRESS CERTAIN STATE INVESTMENTS RELATING TO SUDAN.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative findings.

(1) On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide."

(2) On September 9, 2004, Secretary of State Colin L. Powell told the U.S. Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility."

(3) On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, "At this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide."

(4) On December 7, 2004, the U.S. Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves."

(5) Also on December 7, 2004, Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter."

(6) On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan."

(7) On September 26, 2006, the U.S. House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the [Darfur] crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad."

(8) The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities genocide.

(9) The Federal Government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

(10) According to a former chair of the U.S. Securities and Exchange Commission, "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company."

(11) Since 1993, the U.S. Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

(12) A 2006 U.S. House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment."

(13) In response to the financial risk posed by investments in companies doing business with a terrorist-sponsoring state, the Securities and Exchange Commission established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies.

(14) The current Sudan divestment movement encompasses nearly 100 universities, cities, states, and private pension plans.

(15) Companies facing such widespread divestment present further material risk to remaining investors.

(16) It is a fundamental responsibility of the State of North Carolina to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors.

(17) It is the prerogative and desire of the State of North Carolina in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital-providing capacity with entities that provide significant practical support for genocide, including certain non-United States companies presently doing business in Sudan.

(18) It is the judgment of the General Assembly that this act should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the Federal Government.

(19) It is the judgment of this General Assembly that mandatory divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously. A Congressional and Presidential declaration of genocide satisfies this high threshold.

SECTION 2. Definitions.

As used in this act, the following definitions apply:

(1) "Active Business Operations" means all Business Operations that are not Inactive Business Operations.

(2) "Business Operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(3) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

(4) "Complicit" means taking actions during any preceding 20-month period which have directly supported or promoted the genocidal campaign in Darfur, including, but not limited to, preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur, actively working to deny, cover up, or alter the record on human rights abuses in Darfur, or other similar actions.

(5) "Direct Holdings" in a Company means all securities of that Company held directly by the Public Fund or in an account or fund in which the Public Fund owns all shares or interests.

(6) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or

after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), and does not include the regional government of southern Sudan.

(7) "Inactive Business Operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.

(8) "Indirect Holdings" in a Company means all securities of that Company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the provisions of this act.

(9) "Marginalized Populations of Sudan" include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's North-South civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(10) "Military Equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including, but not limited to, radar systems or military-grade transport vehicles; or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(11) "Mineral Extraction Activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including by providing supplies or services in support of such activities.

(12) "Oil-Related Activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered Oil-Related Activities.

(13) "Power Production Activities" means any Business Operation that involves a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar Government of Sudan entity whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.

(14) "Public Fund" means any funds held by the State Treasurer to the credit of:

a. The Teachers' and State Employees' Retirement System.
b. The Consolidated Judicial Retirement System.
c. The Firemen's and Rescue Workers' Pension Fund.
d. The Local Governmental Employees' Retirement System.
e. The Legislative Retirement System.
f. The Legislative Retirement Fund.
g. The North Carolina National Guard Pension Fund.

(14a) "Scrutinized Business Operations" means Business Operations that have resulted in a Company becoming a Scrutinized Company.

(15) "Scrutinized Company" means any Company that meets the criteria in sub-subdivisions a., b., or c. below:

a. The Company has Business Operations that involve contracts with and/or provision of supplies or services to the Government of Sudan, to companies in which the Government of Sudan has any direct or indirect equity share, Government of Sudan-commissioned consortiums or projects, or to Companies involved in Government of Sudan-commissioned consortiums or projects and at least one of the following conditions is satisfied:
    1. More than ten percent (10%) of the Company's revenues or assets linked to Sudan involve Oil-Related Activities or Mineral Extraction Activities; less than seventy-five percent (75%) of the Company's revenues or assets linked to Sudan involve contracts with and/or provision of Oil-Related or Mineral Extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the Company has failed to take Substantial Action.
    2. More than ten percent (10%) of the Company's revenues or assets linked to Sudan involve Power Production Activities; less than seventy-five percent (75%) of the Company's Power Production Activities include projects whose intent is to provide power or electricity to the Marginalized Populations of Sudan; and the Company has failed to take Substantial Action.
b. The Company is Complicit in the Darfur genocide.
c. The Company supplies Military Equipment within Sudan, unless it clearly shows that the Military Equipment cannot be used to facilitate offensive military actions in Sudan or the Company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of such equipment by the Company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan

or any internationally recognized peacekeeping force or humanitarian organization.

Notwithstanding anything herein to the contrary, a Social Development Company which is not Complicit in the Darfur genocide shall not be considered a Scrutinized Company.

(16) "Social Development Company" means a Company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to Oil-Related Activities, Mineral Extraction Activities, or Power Production Activities.

(17) "Substantial Action" means adopting, publicizing, and implementing a formal plan to cease Scrutinized Business Operations within one year and to refrain from any such new Business Operations; undertaking significant humanitarian efforts on behalf of one or more Marginalized Populations of Sudan; or through engagement with the Government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

SECTION 3. Identification of companies.

(a) Within 90 days of this act becoming effective, the Public Fund shall make its best efforts to identify all Scrutinized Companies in which the Public Fund has Direct or Indirect Holdings or could possibly have such holdings in the future. Such efforts shall include, as appropriate:

(1) Reviewing and relying, as appropriate in the Public Fund's judgment, on publicly available information regarding Companies with Business Operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

(2) Contacting asset managers contracted by the Public Fund that invest in Companies with Business Operations in Sudan; or

(3) Contacting other institutional investors that have divested from and/or engaged with Companies that have Business Operations in Sudan.

(b) By the first meeting of the Public Fund following the 90-day period described in subsection (a), the Public Fund shall assemble all Scrutinized Companies identified into a "Scrutinized Companies List."

(c) The Public Fund shall update the Scrutinized Companies List on a quarterly basis based on evolving information from, among other sources, those listed in subsection (a) of this section.

SECTION 4. Required actions.

(a) General. The Public Fund shall adhere to the procedure for Companies on the Scrutinized Companies List as provided in this section:

(b) Engagement.

(1) The Public Fund shall immediately determine the Companies on the Scrutinized Companies List in which the Public Fund owns Direct or Indirect Holdings.

(2) For each Company identified in subdivision (1) of this section with only Inactive Business Operations, the Public Fund shall send a

written notice informing the Company of this act and encouraging it to continue to refrain from initiating Active Business Operations in Sudan until it is able to avoid Scrutinized Business Operations. The Public Fund shall continue such correspondence on a semiannual basis.

(3) For each Company newly identified in subdivision (1) of this section with Active Business Operations, the Public Fund shall send a written notice informing the Company of its Scrutinized Company status and that it may become subject to divestment by the Public Fund. The notice shall offer the Company the opportunity to clarify its Sudan-related activities and shall encourage the Company, within 90 days, to either cease its Scrutinized Business Operations or convert such operations to Inactive Business Operations in order to avoid qualifying for divestment by the Public Fund.

(4) If, within 90 days following the Public Fund's first engagement with a Company pursuant to subdivision (3) of this section that Company ceases Scrutinized Business Operations, the Company shall be removed from the Scrutinized Companies List and the provisions of this Section shall cease to apply to it unless it resumes Scrutinized Business Operations. If, within 90 days following the Public Fund's first engagement, the Company converts its Scrutinized Active Business Operations to Inactive Business Operations, the Company shall be subject to all provisions relating thereto.

(c) Divestment.

(1) If, after 90 days following the Public Fund's first engagement with a Company pursuant to subdivision (b)(3) of this section, the Company continues to have Scrutinized Active Business Operations, and only while such Company continues to have Scrutinized Active Business Operations, the Public Fund shall sell, redeem, divest, or withdraw all publicly traded securities of the Company within 15 months after the Company's most recent appearance on the Scrutinized Companies List.

(2) If a Company that ceased Scrutinized Active Business Operations following engagement pursuant to subdivision (b)(3) of this section resumes such operations, subdivision (1) of this subsection shall immediately apply, and the Public Fund shall send a written notice to the Company. The Company shall also be immediately reintroduced onto the Scrutinized Companies List.

(d) Prohibition. At no time shall the Public Fund acquire securities of Companies on the Scrutinized Companies List that have Active Business Operations, except as provided below.

(e) Exemption. No Company which the United States Government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan shall be subject to divestment or investment prohibition pursuant to subsections (c) and (d) of this section.

(f) Excluded Securities. Notwithstanding anything herein to the contrary, subsections (c) and (d) of this section shall not apply to Indirect Holdings in actively managed investment funds. The Public Fund shall, however, submit letters to the managers of such investment funds containing Companies with Scrutinized Active Business Operations requesting that they consider removing such Companies from the

fund or create a similar actively managed fund with Indirect Holdings devoid of such Companies. If the manager creates a similar fund, the Public Fund shall replace all applicable investments with investments in the similar fund in an expedited time frame consistent with prudent investing standards. For the purposes of this section, "private equity" funds shall be deemed to be actively managed investment funds.

SECTION 5. Reporting.

(a) The Public Fund shall file a publicly available report to the General Assembly that includes the Scrutinized Companies List annually.

(b) Annually thereafter, the Public Fund shall file a publicly available report to the General Assembly and send a copy of that report to the United States Presidential Special Envoy to Sudan (or an appropriate designee or successor) that includes:

(1) A summary of correspondence with Companies engaged by the Public Fund under Sections 4(b)(2) and (b)(3) of this act.

(2) All investments sold, redeemed, divested, or withdrawn in compliance with Section 4(c) of this act.

(3) All prohibited investments under Section 4(d) of this act; and

(4) Any progress made under Section 4(f) of this act.

SECTION 6. Expiration of this act. This act expires upon the occurrence of any of the following:

(1) The Congress or President of the United States declaring that the Darfur genocide has been halted for at least 12 months.

(2) The United States revoking all sanctions imposed against the Government of Sudan.

(3) The Congress or President of the United States declaring that the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(4) The Congress or President of the United States, through legislation or executive order, declaring that mandatory divestment of the type provided for in this act interferes with the conduct of United States foreign policy.

SECTION 7. Other legal obligations. With respect to actions taken in compliance with this act, including all good faith determinations regarding Companies as required by this act, the Public Fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations in respect to choice of asset managers, investment funds, or investments for the Public Fund's securities portfolios.

SECTION 8. Reinvestment in certain companies with Scrutinized Active Business Operations. Notwithstanding anything in this act, the Public Fund is permitted to cease divesting from certain Scrutinized Companies pursuant to Section 4(c) of this act and/or reinvest in certain Scrutinized Companies from which it divested pursuant to Section 4(c) of this act if clear and convincing evidence shows that the value for all assets under management by the Public Fund becomes equal to or less than 99.50% (50 basis points) of the hypothetical value of all assets under management by the Public Fund assuming no divestment for any company had occurred under Section 4(c) of this act. Cessation of divestment, reinvestment, and/or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of

divestment, reinvestment, and/or subsequent ongoing investment authorized by this section, the Public Fund shall provide a written report to the General Assembly in advance of initial reinvestment, updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, and/or remain invested in Companies with Scrutinized Active Business Operations. This section has no application to reinvestment in Companies on the ground that they have ceased to have Scrutinized Active Business Operations.

SECTION 9. Enforcement. The Attorney General is charged with enforcing the provisions of this act and, through any lawful designee, may bring such actions in court as are necessary to do so.

SECTION 10. Severability. If any one or more provision, section, subsection, sentence, clause, phrase, or word of this legislation or the application thereof to any person or circumstance is found to be invalid, illegal, unenforceable, or unconstitutional, the same is hereby declared to be severable and the balance of this legislation shall remain effective and functional notwithstanding such invalidity, illegality, unenforceability, or unconstitutionality. The General Assembly declares that it would have passed this legislation, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared invalid, illegal, unenforceable, or unconstitutional, including, but not limited to, each of the engagement, divestment, and prohibition provisions of this legislation.

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 12:27 p.m. on the 30th day of August, 2007.

Session Law 2007-487 **Senate Bill 684**

AN ACT TO PROVIDE FOR FUNDING FOR THE STATEWIDE SPAY AND NEUTER PROGRAM FROM THE SALE OF RABIES VACCINATION TAGS AND TO REQUIRE REPORTING ON THE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-190 reads as rewritten:

"§ **130A-190. Rabies vaccination tags.**

(a) Issuance. – A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words "North Carolina" or the initials "N.C." and the words "rabies vaccine." Dogs and cats shall wear rabies vaccination tags at all times. However, cats may be exempted from wearing the tags by local ordinance.

(b) Fee. – Rabies vaccination tags, ~~links and~~ links, and rivets may be obtained from the Department. The Secretary is authorized to establish by rule a fee for the rabies tags, ~~links and rivets.~~ links, and rivets in accordance with this subsection. ~~Except as otherwise authorized in this section, the fee shall not exceed the actual cost of the rabies tags, links and rivets, plus transportation costs. The Secretary may increase the fee beyond the actual cost plus transportation, by an amount not to exceed five cents ($.05)~~

~~per tag, to fund rabies education and prevention programs.~~The fee for each tag is the sum of the following:

(1) The actual cost of the rabies tag, links, and rivets.

(2) Transportation costs.

(3) Five cents (5¢). This portion of the fee shall be used to fund rabies education and prevention programs.

(4) Twenty cents (20¢). This portion of the fee shall be credited to the Spay/Neuter Account established in G.S. 19A-62 and used to fund statewide spay/neuter programs. This portion of the fee shall not be imposed for tags provided to persons who operate establishments primarily for the purpose of boarding or training hunting dogs or who own and vaccinate 10 or more dogs per year.

~~(c) The Department shall make available a special edition rabies tag to be known as the "I Care" tag. This tag shall be different in shape from the standard tag and shall carry the inscription "I Care" in addition to the information required by subsection (a) of this section. The Secretary is authorized to establish a fee for the "I Care" rabies tag equal to the amount set forth in subsection (b) of this section plus an additional fifty cents ($.50). The additional fifty cents ($.50) shall be credited to the Spay/Neuter Account established in G.S. 19A-62.~~"

SECTION 2. G.S. 19A-62 reads as rewritten:

"§ **19A-62. Spay/Neuter Account established.**

(a) Creation. – The Spay/Neuter Account is established as a nonreverting special revenue account in the Department of Health and Human Services. The Account consists of the following:

(1) ~~Fifty cents (50¢) of the fee imposed by G.S. 130A-190(c) on the costs of obtaining rabies vaccination tags~~ The portion of the fee imposed under G.S. 130A-190(b)(4) for obtaining a rabies vaccination tag from the Department of Health and Human Services.

(2) Ten dollars ($10.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.

(3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. – The revenue in the Account shall be used by the Department of Health and Human Services as follows:

(1) If the revenue generated by the portion of the fee imposed under G.S. 130A-190(b)(3) is less than forty-seven thousand five hundred dollars ($47,500) for the fiscal year, then funds up to the difference between forty-seven thousand five hundred dollars ($47,500) and the amount of revenue generated may be used from this Account to fund rabies education and prevention programs.

(2) Twenty percent (20%) shall be used to develop and implement the statewide education program component of the Spay/Neuter Program established in G.S. 19A-61(a).

~~(2)~~(3) Up to twenty percent (20%) of the money in the Account may be used to defray the costs of administering the Spay/Neuter Program established in this Article.

~~(3)~~(4) Funds remaining after deductions for the education program and administrative expenses shall be distributed quarterly to eligible

counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed during the previous year. A county or city is ineligible to receive funds under this subdivision unless it requires the owner to show proof of rabies vaccination at the time of the procedure or, if none, require vaccination at the time of the procedure."

SECTION 3. In February of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account.

SECTION 4. This act becomes effective January 1, 2008.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:30 p.m. on the 30th day of August, 2007.

Session Law 2007-488 **Senate Bill 1457**

AN ACT TO REQUIRE BONDS FOR CONTRACTS ISSUED BY THE DIVISION OF MOTOR VEHICLES TO COMMISSION CONTRACTORS WHO OPERATE LICENSE PLATE AGENCIES, TO ADD CHARLOTTE TO THE DIVISION OF MOTOR VEHICLES OPERATED REGISTRATION OFFICES, TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO HAVE AT LEAST TWO AUTHORIZED ONLINE MOTOR VEHICLE REGISTRATION VENDORS APPROVED FOR CONTRACTING AT ALL TIMES, AND TO AUTHORIZE COMMISSION CONTRACT AGENTS TO CONTRACT WITH ONLINE DEALER REGISTRATION VENDORS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-63A. Bonds required for commission contractors.**

(a) A guaranty bond is required for each commission contractor that is not a governmental subdivision of this State that is granted a contract to issue license plates or conduct business pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided in subsection (c) of this section.

The Division may revoke, with cause, a contract with a commission contractor that fails to maintain a bond or an alternative to a bond, pursuant to this section.

(b) (1) When application is made for a contract or contract renewal, the applicant shall file a guaranty bond with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located. The bond shall be in favor of the Division. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to the Division for a loss of revenue for any reason, including bankruptcy, employee embezzlement or theft, foreclosure, or ceasing to operate.

(2) The bond shall be in an amount determined by the Division to be adequate to provide indemnification to the Division under the terms of the bond. The bond amount shall be at least one hundred thousand dollars ($100,000).

(3) The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Division. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(4) The Division may be able to negotiate bonds for contractors who qualify for bonds as a group under favorable rates or circumstances. If so, the Division may require those contractors who can qualify for the group bond to obtain their bond as part of a group of contractors. The Division may deduct the premiums for any bonds it may be able to negotiate at group rates from the commissioned contractors' compensation.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

(1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Division; (ii) which is executed by the applicant; (iii) which is executed by a state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.

(2) A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable certificate of deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to the Division; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section."

SECTION 2. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the Charlotte and Raleigh offices of the Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted

above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax shall be considered a separate transaction for which one dollar and twenty-seven cents ($1.27) compensation shall be paid. The performance at the same time of one or more of the remaining transactions listed in this subsection shall be considered a single transaction for which one dollar and forty-three cents ($1.43) compensation shall be paid.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.
(2) Issuance of a handicapped placard or handicapped identification card.
(3) Acceptance of an application for a personalized registration plate.
(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
(5) Cancellation of a title because the vehicle has been junked.
(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
(7) **(Effective until July 1, 2008)** Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
(7) **(Effective July 1, 2008)** Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.
(9) Collection of the highway use tax.
(10) Acceptance of a temporary lien filing."

SECTION 3. G.S. 20-63(i) reads as rewritten:

"(i) Electronic Applications and Collections. – The Division ~~is authorized to~~ shall accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and is authorized to electronically collect fees ~~and penalties.~~from online motor vehicle registration vendors under contract with the Division."

SECTION 4. G.S. 20-63 is amended by adding a new subsection to read:

"(j) The Division shall contract with at least two online motor vehicle registration vendors which may enter into contracts with motor vehicle dealers to complete and file

Division required documents for the issuance of a certificate of title, registration plate, or registration card or a duplicate certificate of title, registration plate, or registration card for a motor vehicle, upon purchase or sale of a vehicle."

SECTION 5. G.S. 20-63 is amended by adding a new subsection to read:

"(k) Commission contract agents are authorized to enter into contracts with online motor vehicle registration vendors which are under contract with the Division to complete and file Division required documents for the issuance of a certificate of title, registration plate, or registration card or a duplicate certificate of title, registration plate, or registration card for a motor vehicle."

SECTION 6. Section 1 of this act becomes effective January 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:31 p.m. on the 30th day of August, 2007.

Session Law 2007-489 **House Bill 726**

AN ACT ALLOWING THE NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS TO PROVIDE FOR THE LICENSURE OF LASER HAIR PRACTITIONERS AND LASER HAIR PRACTITIONER INSTRUCTORS UPON MEETING CERTAIN REQUIREMENTS ESTABLISHED BY THE BOARD AND AUTHORIZING THE BOARD TO CHARGE FEES RELATED TO THOSE CERTIFICATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88A-2 reads as rewritten:

"§ **88A-2. Purpose.**

The purpose of this Chapter is to ensure minimum standards of competency, to protect the public from misrepresentation of status by persons who hold themselves out to be ~~"certified electrologists",~~'licensed electrologists' or 'licensed laser hair practitioners' and to provide the public with safe care by the mandatory licensing of ~~electrologists.~~electrologists and laser hair practitioners."

SECTION 2. G.S. 88A-3 is amended by adding the following new subdivisions to read:

"§ **88A-3. Definitions.**

As used in this Chapter, unless the context requires otherwise:

…

(5) 'Laser hair practitioner' means a person who engages in laser, light source, or pulsed-light treatments for the removal of hair.

(6) 'Laser, light source, or pulsed-light treatments' means the use of laser or pulsed-light devices for nonablative procedures for the removal of hair.

(7) 'Laser, light source, or pulsed-light devices' means a device used exclusively in the nonablative procedure for the removal of hair."

SECTION 3. G.S. 88A-4 reads as rewritten:

"§ **88A-4. Unlawful practice.**

(a) ~~Effective January 31, 1994, it~~It shall be unlawful to engage in the practice of electrolysis or laser, light source, or pulsed-light treatments in this State without a license.

(b) Any person practicing electrology or laser, light source, or pulsed-light treatments for the purpose of hair removal or hair reduction in this State without being licensed by the Board shall be guilty of a Class I felony and may be assessed a civil penalty of up to five thousand dollars ($5,000) for each offense. Any other violation of this Chapter shall be a Class 2 misdemeanor."

SECTION 4. G.S. 88A-9(b) reads as rewritten:

"(b) All fees may be calculated by the Board in amounts sufficient to pay the costs of administration of this act, but in no event may they exceed the following:

(1)	Application for licensure as an electrologist	$150.00
(1a)	Initial license	150.00
(1b)	Examination or reexamination	125.00
(2)	Licensure of electrology renewal	~~200.00~~ 150.00
(3)	Application for ~~certification~~ licensure as an electrology instructor	150.00
(4)	~~Certificate~~ Licensure of electrology instructor renewal	~~75.00~~ 150.00
(5)	Application for certification as a ~~Board approved~~ Board-approved school of electrology	500.00
(5a)	Application for licensure as laser hair practitioner	150.00
(5b)	Licensure of laser hair practitioner renewal	150.00
(5c)	Application for licensure as laser hair practitioner instructor	150.00
(5d)	Licensure of laser hair practitioner instructor renewal	150.00
(5e)	Application for certification as a Board-approved school of laser, light source, or pulsed-light treatments	500.00
(5f)	Certificate of Board-approved school of laser, light source, or pulsed-light renewal	400.00
(6)	Certificate of ~~Board approved~~Board-approved school of electrology renewal	250.00
(6a)	Certification of out-of-state schools	~~100.00~~ 150.00
(6b)	Certification of out-of-state schools renewal	~~75.00~~ 100.00
(6c)	Office inspection or reinspection	100.00
(6d)	License by reciprocity	150.00
(7)	Late renewal charge	~~75.00~~ 125.00
(8)	Reinstatement of expired license or certification	~~300.00~~ 250.00
(9)	Reactivation of license	200.00
(10)	Duplicate license or certification	25.00."

SECTION 5. G.S. 88A-10(a)(3) reads as rewritten:

"(a) Any person who desires to be licensed as an "electrologist" pursuant to this Chapter shall:

…

(3) Be ~~18~~ 21 years of age or older.

…."

SECTION 6. Chapter 88A of the General Statutes is amended by adding a new section to read:

"**§ 88A-11.1. Requirements for licensure as a laser hair practitioner; limitations on licensed laser hair practitioners.**

(a) Any person seeking licensure by the Board as a laser hair practitioner shall have met the following requirements at the time the license is requested:

(1) Be an electrologist licensed under this Chapter.

(2) Completed a minimum 30-hour laser, light source, or pulsed-light treatment certification course approved by the Board and in accordance with rules adopted by the Board.

(3) Be currently using or anticipate using laser, light source, or pulsed-light devices that the person has been certified by a Board-approved school to operate.

(b) When the Board determines that an applicant has met all the requirements for licensure, and has submitted the initial license fee required in G.S. 88A-9(b), the Board shall issue a license to the applicant.

(c) Each laser hair practitioner shall practice laser, light source, or pulsed-light treatments under the supervision of a physician licensed under Article 1 of Chapter 90 of the General Statutes. The physician shall be readily available, but not required to be on site when the laser, light source, or pulsed-light treatments are being performed. However, the authority to regulate laser clinicians shall remain with the Board.

(d) A laser hair practitioner shall not dispense or administer medication or provide advice regarding the use of medication, whether prescription or over-the-counter, in connection with laser, light source, or pulsed-light treatments.

(e) All laser hair practitioners shall use laser, light source, or pulsed-light devices approved by the federal Food and Drug Administration and comply with all applicable federal and State regulations, rules, and laws. Any licensed laser hair practitioner violating this subsection shall have his or her license revoked by the Board.

(f) Only a licensed physician may use laser, light source, or pulsed-light devices for ablative procedures."

SECTION 7. G.S. 88A-12 reads as rewritten:

"§ **88A-12. License renewal.**

(a) Every electrologist license or laser hair practitioner license issued pursuant to this Chapter must be renewed annually. On or before the date the current license expires, a person who desires to continue to practice electrology or as a laser hair practitioner shall apply for license renewal to the Board on forms approved by the Board, provide evidence of the successful completion of a continuing educational program approved by the Board, meet the criteria for renewal established by the Board, and pay the required fee. The Board may provide for the late renewal of licensure upon payment of a late fee as set by the Board, but late renewal may not be granted more than 90 days after expiration of the license.

(b) Any person who has failed to renew his or her license for more than 90 days after expiration may have it reinstated by applying to the Board for reinstatement on a form approved by the Board, furnishing a statement of the reason for failure to apply for renewal prior to the deadline, and paying the required fee. The Board may require evidence of competency to resume practice before reinstating the applicant's license."

SECTION 8. G.S. 88A-13 is amended by adding the following new subsection to read:

"(d) Laser hair practitioners are required to complete a minimum of 10 hours of continuing education annually to maintain their licenses pursuant to rules adopted by the Board."

SECTION 9. Chapter 88A of the General Statutes is amended by adding the following new sections to read:

"**§ 88A-15.1. Persons and practices not affected.**

The requirements of this Chapter shall not apply to any person licensed or approved by the North Carolina Medical Board to practice medicine or perform medical acts, tasks, or functions pursuant to Article 1 of Chapter 90 of the General Statutes or any person employed and working under the direct supervision of a physician licensed to practice medicine pursuant to Article 1 of Chapter 90 of the General Statutes.

"**§ 88A-17.1. Requirements for licensure as a laser hair practitioner instructor.**

(a) Any person who desires licensure as a laser practitioner instructor pursuant to this Chapter shall meet the following requirements:

(1) Submit an application on a form approved by the Board.

(2) Be an electrologist licensed under this Chapter or a physician licensed under Article 1 of Chapter 90 of the General Statutes.

(3) Have practiced laser and light-based treatments actively for at least five years immediately before applying for licensure.

(4) Have at least 100 hours of training in laser and light-based treatments.

(b) When the Board determines that an applicant has met all qualifications for licensure as a laser hair practitioner instructor and has submitted the required fee, the Board shall issue an instructor's license to the applicant."

SECTION 10. G.S. 88A-18 reads as rewritten:

"**§ 88A-18. Renewal of instructor's ~~certificate.~~license.**

An electrology or laser hair practitioner instructor's ~~certificate~~ license shall be renewed annually. On or before the date the current ~~certificate~~ license expires, the applicant must submit an application for renewal of ~~certification~~ licensure on a form approved by the Board, meet criteria for renewal established by the Board, and pay the required fee. Any person whose instructor's ~~certificate~~ license has expired for a period of ~~five~~ three years or more shall be required to take and pass the instructor's examination before the ~~certificate~~ license can be renewed."

SECTION 11. Chapter 88A of the General Statutes is amended by adding the following new section to read:

"**§ 88A-19.1. Requirements for certification as a Board-approved school of laser, light source, or pulsed-light treatments.**

(a) Any school in this State or another state that desires to be certified as a Board-approved school of laser, light source, or pulsed-light treatments shall:

(1) Submit an application on a form approved by the Board;

(2) Submit a detailed projected floor plan of the institutional area demonstrating adequate school facilities to accommodate students for purposes of lectures, classroom instruction, and practical demonstration;

(3) Submit a detailed list of the equipment to be used by the students in the practical course of their studies;

(4) Submit a copy of the planned laser, light source, or pulsed-light curriculum consisting of the number of hours and subject matter determined by the Board, provided that the number of hours required shall not be less than 30 hours pursuant to rules adopted by the Board;

(5) Submit a certified copy of the school manual of instruction;

(6) Submit the names and qualifications of the instructors certified; and

(7) Submit any additional information the Board may require.

(b) When the Board determines that an applicant has met all the qualifications for certification as a Board-approved school of laser, light source, or pulsed-light treatments and has submitted the required fee, the Board shall issue a certificate to the applicant.

(c) A school's certification is only valid for the location named in the application. When a school desires to change locations, an application shall be submitted to the Board on a form furnished by the Board, and the fee shall be paid for certificate renewal.

(d) A school's certification is not transferable. Schools shall immediately notify the Board in writing of any sale, transfer, or change in ownership or management.

(e) Every school shall display its certification in a manner prescribed by the Board.

(f) All laser, light source, or pulsed-light devices used in the school shall be approved by the federal Food and Drug Administration."

SECTION 12. G.S. 88A-20 reads as rewritten:

"§ **88A-20. Certification renewal.**

Every certificate issued pursuant to G.S. 88A-19 or G.S. 88A-19.1 shall be renewed annually. On or before the date the current certificate expires, the applicant must submit an application for renewal of certification on a form approved by the Board, meet criteria for renewal established by the Board, and pay the required fee. Failure to renew the certificate within 90 days after the expiration date shall result in automatic forfeiture of any certification issued pursuant to this Chapter."

SECTION 13. Any person who submits proof to the Board that he or she has met educational training requirements to practice as a laser hair practitioner in accordance with rules adopted by the North Carolina Board of Electrolysis Examiners shall be licensed without having to satisfy the educational training requirements of G.S. 88A-11.1, as enacted by Section 6 of this act, but shall comply with all other requirements for licensure under G.S. 88A-11.1, enacted by Section 6 of this act, and otherwise comply with the provisions of Chapter 88A of the General Statutes and rules adopted by the Board.

SECTION 14. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:33 p.m. on the 30th day of August, 2007.

Session Law 2007-490 **House Bill 1786**

AN ACT TO DEFINE AND REGULATE MIXED MARTIAL ARTS, AND TO AUTHORIZE THE ALCOHOL LAW ENFORCEMENT DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO ESTABLISH AND RAISE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-651 reads as rewritten:

"§ **143-651. Definitions.**

The following definitions apply in this Article:

(1) Amateur. – A person who is not receiving or competing for and has never received or competed for any purse or other article or thing of value for participating in a match.

(2) Announcer. – Any person who engages in the act of announcing a ~~boxing~~ match.

(3) Boxer. – Any person who engages as a participant in a boxing match.

(4) Boxing match. – A match where the participants engage in the use of full contact boxing techniques (using the fist only), and where the object of a match is to win by decision, knockout (KO), or technical knockout (TKO).

(5) Repealed by Session Laws 2004-124, s. 18.2.(a), effective July 1, 2004.

(6) Contest. – A ~~boxing~~ match in which the participants strive to win.

(7) Contestant. – Any person who engages as a participant in a ~~boxing~~boxing, kickboxing, or mixed martial arts ~~match.~~match, or toughman event.

(7a) Division. – The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety.

(8) Exhibition. – A ~~boxing~~ match where the participants display their ~~boxing~~ skills and technique without necessarily striving to win.

(9) Judge. – A person who has a vote in determining the winner of any match or contest.

(10) Kickboxer. – Any person who engages as a participant in a kickboxing match.

(11) Kickboxing match. – A match in which the participants engage in full contact martial arts fighting techniques using the hands and the feet, and where the object of the match is to win by decision, knockout (KO), or technical knockout (TKO).

(12) Licensee. – Any person, club, corporation, organization, or association to whom a license has been issued pursuant to the provisions of this Article.

(13) Manager. – Any person who controls or administers the ~~boxing~~ affairs of any contestant, and who:

a. By contract, agreement, or other arrangement with any person undertakes or has undertaken to represent in any way the interest of the contestant in any professional ~~boxing~~ contest in which the ~~boxer~~ contestant is to participate ~~as a contestant,~~ and is entitled under that contract, agreement, or arrangement to receive monetary or other compensation for his or her services, without regard to the sources of the compensation. The term "manager" shall not be construed to mean any attorney licensed to practice in this State whose participation in the activities is restricted solely to representing the interests of a professional ~~boxer~~ contestant as a client.

b. Directs or controls the professional ~~boxing~~ activities of any professional ~~boxer.~~contestant.

c. Receives or is entitled to receive a percentage of the gross purse or gross income of any professional ~~boxing~~ contest.

(14) Match. – Any ~~boxing or kickboxing~~ boxing, kickboxing, or mixed martial arts contest or exhibition, or toughman event, and includes any event, engagement, sparring or practice session, show or program where the public is admitted and in which there is intended to be

physical contact, whether an exhibition or contest. This definition does not include training or practice sessions when no admission is charged.

(15) Matchmaker. – A person through whom matches are arranged for participants and who otherwise assists participants in procuring engagement ~~dates for boxing.~~dates.

(15a) Mixed martial artist. – Any person who engages as a participant in a mixed martial arts match.

(15b) Mixed martial arts. – A form of sporting martial arts that uses a variety of martial arts techniques to deliver blows with the hands, elbows, and any part of the leg below the hip, including the knee and foot, and also uses boxing, wrestling, and grappling techniques.

(16) Natural person. – An individual.

(17) Participant. – Any person who engages in a match or exhibition and performs as a ~~boxer.~~boxer, kickboxer, or mixed martial artist.

(18) Person. – An individual, group of individuals, business, corporation, limited liability company, partnership, or any other individual or collective entity.

(19) Physician. – An individual licensed to practice medicine in this State.

(20) Professional. – Any person who is licensed as a ~~professional boxer under the federal Professional Boxing Safety Act of 1996.~~contestant and receives compensation for participating in matches.

(21) Promoter. – Any person who produces, arranges, stages, holds, or gives any match in North Carolina involving a professional participant.

(22) Referee. – The official who shall enter and remain in the ring for the duration of a match and shall enforce the rules and maintain order in the ring.

(23) Ring official. – Any person who performs an official function for the duration of a match.

(23a) Sanctioned amateur. – A person who competes in a sanctioned amateur match.

(23b) Sanctioned amateur match. – Any ~~boxing or kickboxing~~ match regulated by an amateur sports organization that has been recognized and approved by the Division.

(24) Second. – Any person who will work or be present in the corner of a participant for the duration of a match.

(25) Timekeeper. – Any person who will operate the clock or watch for the duration of a match for the purpose of keeping the official time of the match.

(25a) Toughman contestant. – Any person who competes in a toughman event.

(25b) Toughman event. – An elimination program of matches in which (i) the contestants are not professional boxers, (ii) the finalist receives a purse or other article of value, (iii) the participants engage in the use of full contact boxing techniques, and (iv) the object of each match is to win by decision, knockout (KO), or technical knockout (TKO).

~~(26) Ultimate warrior match. – A match where the participants use any combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques and which combination of techniques is not specifically authorized by and conducted pursuant to this Article.~~

(27) Unarmed combat. – A match consisting of any combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques which may reasonably be expected to inflict injury to opponents."

SECTION 2. G.S. 143-652.1 reads as rewritten:

"§ **143-652.1. Regulation of ~~Boxing.~~boxing, kickboxing, mixed martial arts, and toughman events.**

The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall regulate live ~~boxing and kickboxing~~ boxing, kickboxing, and mixed martial arts matches, whether professional, amateur, or sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars ($25.00). The Division shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, and mixed martial arts ~~sanctioned amateur, amateur, and toughman~~ matches and ~~exhibitions~~ exhibitions, whether professional, amateur, or sanctioned amateur, and toughman events in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

(1) Requirements for issuance of licenses and permits required by this Article.
(2) Regulation of ticket sales.
(3) Physical requirements for contestants, including classification by weight and skill.
(4) Supervision of matches and exhibitions by licensed physicians and referees.
(5) Insurance and bonding requirements.
(6) Compensation of participants and licensees.
(7) Contracts and financial arrangements.
(8) Prohibition of dishonest, unethical, and injurious practices.
(9) Facilities.
(10) Approval of sanctioning amateur sports organizations.
(11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996."

SECTION 3. G.S. 143-653 reads as rewritten:

"§ **143-653. ~~Ultimate warrior~~Unauthorized matches prohibited.**

~~Ultimate warrior matches, whether the participants are professionals or amateurs, are prohibited.~~ No person shall promote, conduct, or engage in ~~ultimate warrior matches.~~an unarmed combat match, whether the participants are professional or amateur, except as authorized by this Article. This section shall not preclude ~~boxing and kickboxing as regulated in this Article or~~ professional wrestling."

SECTION 4. G.S. 143-654(c) reads as rewritten:

"(c) Surety Bond. – An applicant for a promoter's license must submit, in addition to any other forms, documents, or exhibits requested by the Division, a surety bond payable to the Division for the benefit of any person injured or damaged by (i) the promoter's failure to comply with any provision of this Article or any rules adopted by the Division or (ii) the promoter's failure to fulfill the obligations of any contract related to the holding of a ~~boxing event.~~match. The surety bond shall be issued in an amount to be no less than ~~five~~ ten thousand dollars ~~($5,000).~~($10,000). The amount of the surety bond shall be negotiable upon the sole discretion of the Division. All surety bonds shall

be upon forms approved by the Secretary of Crime Control and Public Safety and supplied by the Division."

SECTION 5. G.S. 143-655 reads as rewritten:

"§ **143-655. Fees; State Boxing Revenue Account.**

(a) License Fees. – The Division shall collect the following license fees:

Announcer	~~$50.00~~$75.00
Contestant	~~$25.00~~$37.50
Judge	~~$50.00~~$75.00
Manager	~~$100.00~~$150.00
Matchmaker	~~$200.00~~$300.00
Promoter	~~$300.00~~$450.00
Referee	~~$50.00~~$75.00
Timekeeper	~~$50.00~~$75.00
Second	~~$25.00.~~$37.50.

The annual license renewal fees shall not exceed the initial license fees.

(b) Permit Fees. – The Division may establish a fee schedule for permits issued under this Article. The fees may vary depending on the seating capacity of the facility to be used to present a match. The fee may not exceed the following amounts:

Seating Capacity	Fee Amount
Less than 2,000	~~$100.00~~$150.00
2,000 – 5,000	~~$200.00~~$300.00
Over 5,000	~~$300.00.~~$450.00.

(b1) Admission Fees. – The Division shall collect a fee in the amount of one dollar and fifty cents ($1.50) per each ticket sold to attend events regulated in this Article.

(c) State Boxing Revenue Account. – There is created the State Boxing Revenue Account within the Department of Crime Control and Public Safety. Monies ~~[moneys]~~ collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

SECTION 6. G.S. 143-656 reads as rewritten:

"§ **143-656. Contracts and financial arrangements.**

Any contract between licensees and related to a ~~boxing~~ match or exhibition held or to be held in this State must meet the requirements of administrative rules as set forth by the Division. Any contract which does not satisfy the requirements of the administrative rules shall be void and unenforceable. All contracts shall be in writing."

SECTION 7. G.S. 143-657.1 reads as rewritten:

"§ **143-657.1. Sanctioned amateur matches.**

In addition to the other applicable provisions of this Article, a sanctioned amateur match shall be conducted pursuant to the rules of the sports organization sanctioning the ~~boxing~~ match or exhibition."

SECTION 8. The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall, as soon as practicable, adopt permanent rules to regulate mixed martial arts, as authorized by this act.

SECTION 9. This act is effective when it becomes law and applies to matches held, and licenses and permits issued, on or after that date, except that no license or permit for mixed martial arts shall be issued by the Division until the rules required under Section 8 of this act become effective.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:35 p.m. on the 30th day of August, 2007.

Session Law 2007-491 **Senate Bill 242**

AN ACT TO REFORM THE PROCESS FOR ADMINISTRATIVE AND JUDICIAL REVIEW OF DISPUTED TAX MATTERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 105 is amended by adding the following new sections to read:

"**§ 105-241.6. Statute of limitations for refunds.**

(a) General. – The general statute of limitations for obtaining a refund of an overpayment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for obtaining a refund of an overpayment is the later of the following:

(1) Three years after the due date of the return.

(2) Two years after payment of the tax.

(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

(1) Federal Determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for requesting a refund is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later.

(2) Waiver. – A taxpayer's waiver of the statute of limitations for making a proposed assessment extends the period in which the taxpayer can obtain a refund to the end of the period extended by the waiver.

(3) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to either of the following:

a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.

b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.

(4) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.

"**§ 105-241.7. Procedure for obtaining a refund.**

(a) Initiated by Department. – The Department must refund an overpayment made by a taxpayer when the Department processes a return and finds all of the following:

(1) The statute of limitations for obtaining a refund has not expired.

(2) The amount shown due on the return is not correct.

(3) The correction of the amount due shows that the taxpayer has overpaid the tax.

(b) Initiated by Taxpayer. – A taxpayer may request a refund of an overpayment made by the taxpayer by taking one of the following actions within the statute of limitations for obtaining a refund:

(1) Filing an amended return reflecting an overpayment due the taxpayer.

(2) Filing a claim for refund. The claim must identify the taxpayer, the type and amount of tax overpaid, the filing period to which the overpayment applies, and the basis for the claim. The taxpayer's statement of the basis of the claim does not limit the taxpayer from changing the basis.

(c) Action on Request. – When a taxpayer files an amended return or a claim for refund, the Department must take one of the actions listed in this subsection within six months after the date the amended return or claim for refund is filed. If the Department does not take one of these actions within this time limit, the inaction is considered a proposed denial of the requested refund.

(1) Send the taxpayer a refund of the amount shown due on the amended return or claim for refund.

(2) Adjust the amount of the requested refund by increasing or decreasing the amount shown due on the amended return or claim for refund and send the taxpayer a refund of the adjusted amount. If the adjusted amount is less than the amount shown due on the amended return or claim for refund, the adjusted refund must include a reason for the adjustment. The adjusted refund is considered a notice of proposed denial for the amount of the requested refund that is not included in the adjusted refund.

(3) Deny the refund and send the taxpayer a notice of proposed denial.

(4) Send the taxpayer a letter requesting additional information concerning the requested refund. If a taxpayer does not respond to a request for information, the Department may deny the refund and send the taxpayer a notice of proposed denial. If a taxpayer provides the requested information, the Department must take one of the actions listed in this subsection within the later of the following:

a. The remainder of the six-month period.

b. 30 days after receiving the information.

c. A time period mutually agreed upon by the Department and the taxpayer.

(d) Notice. – A notice of a proposed denial of a request for refund must contain the following information:

(1) The basis for the proposed denial. The statement of the basis of the denial does not limit the Department from changing the basis.

(2) The circumstances under which the proposed denial will become final.

(e) Restrictions. – The Department may not refund any of the following:

(1) Until a taxpayer files a final return for a tax period, an amount paid before the final return is filed.

(2) An overpayment setoff under Chapter 105A, the Setoff Debt Collection Act, or under another setoff debt collection program authorized by law.

(3) An income tax overpayment the taxpayer has elected to apply to another purpose as provided in this Article.

(4) An individual income tax overpayment of less than one dollar ($1.00) or another tax overpayment of less than three dollars ($3.00), unless the taxpayer files a written claim for the refund.

(f) Effect of Denial or Refund. – A proposed denial of a refund by the Secretary is presumed to be correct. A refund does not absolve a taxpayer of a tax liability that may in fact exist. The Secretary may propose an assessment for any deficiency as provided in this Article.

"**§ 105-241.8. Statute of limitations for assessments.**

(a) General. – The general statute of limitations for proposing an assessment applies unless a different period applies under subsection (b) of this section. The general statute of limitations for proposing an assessment is the later of the following:

(1) Three years after the due date of the return.

(2) Three years after the taxpayer filed the return.

(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

(1) Federal determination. – If a taxpayer files a return reflecting a federal determination and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is three years after the date the Secretary received the final report of the federal determination.

(2) Failure to file or filing false return. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if any of the following applies:

a. The taxpayer did not file a return.

b. The taxpayer filed a fraudulent return.

c. The taxpayer attempted in any manner to fraudulently evade or defeat the tax.

(3) Tax forfeiture. – If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the period for proposing an assessment of any tax due as a result of the forfeiture is three years after the date of the forfeiture.

(4) Nonrecognition of gain. – If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the period for proposing an assessment of any tax due as a result of the conversion or election is the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code.

"**§ 105-241.9. Procedure for proposing an assessment.**

(a) Authority. – The Secretary may propose an assessment against a taxpayer for tax due from the taxpayer. The Secretary must base a proposed assessment on the best information available. A proposed assessment of the Secretary is presumed to be correct.

(b) Time Limit. – The Secretary must propose an assessment within the statute of limitations for proposed assessments unless the taxpayer waives the limitations period in writing. A taxpayer may waive the limitations period for either a definite or an indefinite time. If the taxpayer waives the limitations period, the Secretary may propose an assessment at any time within the time extended by the waiver.

(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(3) The circumstances under which the proposed assessment will become final and collectible.

"**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, as appropriate. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability.

"**§ 105-241.11. Requesting review of proposed denial of refund or proposed assessment.**

(a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a proposed assessment of tax may request a Departmental review of the proposed action by filing a request for review. The request must be filed with the Department within 45 days after the following:

(1) The date the notice of the proposed denial of the refund or proposed assessment was mailed to the taxpayer, if the notice was delivered by mail.

(2) The date the notice of the proposed denial of the refund or proposed assessment was delivered to the taxpayer, if the notice was delivered in person.

(3) The date that inaction by the Department on a request for refund was considered a proposed denial of the refund.

(b) Filing. – A request for a Departmental review of a proposed denial of a refund or a proposed assessment is considered filed on the following dates:

(1) For a request that is delivered in person, the date it is delivered.

(2) For a request that is not delivered in person, the date the Department receives it.

"**§ 105-241.12. Result when taxpayer does not request a review.**

(a) Refund. – If a taxpayer does not file a timely request for a Departmental review of a proposed denial of a refund, the proposed denial is final and is not subject to further administrative or judicial review. A taxpayer whose proposed denial becomes final may not file another amended return or claim for refund to obtain the denied refund.

(b) Assessment. – If a taxpayer does not file a timely request for a Departmental review of a proposed assessment, the proposed assessment is final and is not subject to further administrative or judicial review. Upon payment of the tax, the taxpayer may request a refund of the tax.

Before the Department collects a proposed assessment that becomes final when the taxpayer does not file a timely request for a Departmental review, the Department must send the taxpayer a notice of collection. A notice of collection must contain the following information:

(1) A statement that the proposed assessment is final and collectible.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

"**§ 105-241.13. Action on request for review.**

(a) Action on Request. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund or a proposed assessment, the Department must conduct a review of the proposed denial or proposed assessment and take one of the following actions:

(1) Grant the refund or remove the assessment.

(2) Schedule a conference with the taxpayer.

(3) Request additional information from the taxpayer concerning the requested refund or proposed assessment.

(b) Conference. – When the Department reviews a proposed denial of a refund or a proposed assessment and does not grant the refund or remove the assessment, the Department must schedule a conference with the taxpayer. The Department must set the time and place for the conference, which may include a conference by telephone, and must send the taxpayer notice of the designated time and place. The Department must send the notice at least 30 days before the date of the conference or, if the Department and the taxpayer agree, within a shorter period.

The conference is an informal proceeding at which the taxpayer and the Department must attempt to resolve the case. Testimony under oath is not taken, and the rules of evidence do not apply. A taxpayer may designate a representative to act on the taxpayer's behalf. The taxpayer may present any objections to the proposed denial of refund or proposed assessment at the conference.

(c) After Conference. – One of the following must occur after the Department conducts a conference on a proposed denial of a refund or a proposed assessment:

(1) The Department and the taxpayer agree on a settlement.

(2) The Department and the taxpayer agree that additional time is needed to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment.

(3) The Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment. If a taxpayer fails to attend a scheduled conference on the proposed denial of a refund or a proposed assessment without prior notice to the Department, the Department and the taxpayer are considered to be unable to resolve the taxpayer's objection.

"**§ 105-241.14. Final determination after Departmental review.**

(a) Refund. – If a taxpayer files a timely request for a Departmental review of a proposed denial of a refund and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed denial, the Department must send the taxpayer a notice of final determination concerning the refund. The notice of final determination must state the basis for the determination and inform the taxpayer of the procedure for contesting the determination. The statement of the basis for the determination does not limit the Department from changing the basis.

(b) Assessment. – If a taxpayer files a timely request for a Departmental review of a proposed assessment and the Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed assessment, the Department must send the taxpayer a notice of final determination concerning the assessment. A notice of final determination concerning an assessment must contain the following information:

(1) The basis for the determination. This information may be stated on the notice or be set out in a separate document. The statement of the basis for the determination does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties payable by the taxpayer.

(3) The procedure the taxpayer must follow to contest the final determination.

(4) A statement that the amount payable stated on the notice is collectible by the Department unless the taxpayer contests the final determination.

(5) An explanation of the collection options available to the Department if the taxpayer does not pay the amount shown due on the notice and any remedies available to the taxpayer concerning these collection options.

(c) Time Limit. – The process set out in G.S. 105-241.13 for reviewing and attempting to resolve a proposed denial of a refund or a proposed assessment must conclude, and a final determination must be issued within nine months after the date the taxpayer files a request for review. The Department and the taxpayer may extend this time limit by mutual agreement. Failure to issue a notice of final determination within the required time does not affect the validity of a proposed assessment.

"**§ 105-241.15. Contested case hearing on final determination.**

A taxpayer who disagrees with a notice of final determination issued by the Department may contest the determination by filing a petition for a contested case hearing at the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes. A taxpayer may file a petition for a contested case hearing only if the taxpayer has exhausted the prehearing remedy. A taxpayer's prehearing remedy is exhausted when the Department issues a final determination after conducting a review and a conference.

"**§ 105-241.16. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). A taxpayer who files a petition for judicial review must pay the amount of tax, penalties, and interest the final decision states is due. A taxpayer may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52.

"**§ 105-241.17. Civil action challenging statute as unconstitutional.**

A taxpayer who claims that a tax statute is unconstitutional may bring a civil action in the Superior Court of Wake County to determine the taxpayer's liability under that statute if all of the conditions in this section are met. In filing an action under this section, a taxpayer must follow the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). The conditions for filing a civil action are:

(1) The taxpayer exhausted the prehearing remedy by receiving a final determination after a review and a conference.

(2) The taxpayer commenced a contested case at the Office of Administrative Hearings.

(3) The Office of Administrative Hearings dismissed the contested case petition for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.

(4) The taxpayer has paid the amount of tax, penalties, and interest the final determination states is due.

(5) The civil action is filed within two years of the dismissal.

"**§ 105-241.18. Reserved for future codification purposes.**

"**§ 105-241.19. Declaratory judgments, injunctions, and other actions prohibited.**

The remedies in G.S. 105-241.11 through G.S. 105-241.17 set out the exclusive remedies for disputing the denial of a requested refund, a taxpayer's liability for a tax, or the constitutionality of a tax statute. Any other action is barred. Neither an action for declaratory judgment, an action for an injunction to prevent the collection of a tax, nor any other action is allowed.

"**§ 105-241.20. Delivery of notice to the taxpayer.**

(a) Scope. – This section applies to the following notices:

(1) A proposed denial of a refund.

(2) A proposed assessment.

(3) A notice of collection.

(4) A final determination.

(b) Method. – The Secretary must deliver a notice listed in subsection (a) of this section to a taxpayer either in person or by United States mail sent to the taxpayer's last known address. A notice mailed to a taxpayer is presumed to have been received by the taxpayer unless the taxpayer makes an affidavit to the contrary within 90 days after the notice was mailed. If the taxpayer makes this affidavit, the notice is considered to have been delivered on the date the taxpayer makes the affidavit, and any time limit affected by the notice is extended to the date the taxpayer makes the affidavit.

"**§ 105-241.21. Interest on taxes.**

(a) Rate. – The interest rate set by the Secretary applies to interest that accrues on overpayments and assessments of tax. On or before June 1 and December 1 of each year, the Secretary must establish the interest rate to be in effect during the six-month

period beginning on the next succeeding July 1 and January 1, respectively. In determining the interest rate, the Secretary must give due consideration to current market conditions and to the rate that will be in effect on that date pursuant to the Code. If no new rate is established, the rate in effect during the preceding six-month period continues in effect. The rate established by the Secretary may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year.

(b) Accrual on Underpayments. – Interest accrues on an underpayment of tax from the date set by statute for payment of the tax until the tax is paid. Interest accrues only on the principal of the tax and does not accrue on any penalty.

(c) Accrual on Refund. – Interest accrues on an overpayment of tax from the time set in the following subdivisions until the refund is paid.

(1) Franchise, income, and gross premiums. – Interest on an overpayment of a tax levied under Article 3 of this Chapter and payable on an annual basis or of a tax levied under Article 4 or 8B of this Chapter accrues from a date 45 days after the latest of the following dates:

a. The date the final return was filed.

b. The date the final return was due to be filed.

c. The date of the overpayment. The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter is determined in accordance with section 6611(d), (f), (g), and (h) of the Code.

(2) All other taxes. – Interest on an overpayment of a tax that is not included in subdivision (1) of this subsection accrues from a date that is 90 days after the date the tax was paid.

(d) When Refund Is Paid. – A refund sent to a taxpayer is considered paid on a date determined by the Secretary that is no sooner than five days after a refund check is mailed. A refund set off against a debt pursuant to Chapter 105A of the General Statutes is considered paid five days after the Department mails the taxpayer a notice of the setoff, unless G.S. 105A-5 or G.S. 105A-8 requires the agency that requested the setoff to return the refund to the taxpayer. In this circumstance, the refund that was set off is not considered paid until five days after the agency that requested the refund mails the taxpayer a check for the refund.

"**§ 105-241.22. Collection of tax.**

The Department may collect a tax in the following circumstances:

(1) When a taxpayer files a return showing tax due with the return and does not pay the amount shown due.

(2) When the Department sends a notice of collection after a taxpayer does not file a timely request for a Departmental review of a proposed assessment of tax.

(3) When a taxpayer and the Department agree on a settlement concerning the amount of tax due.

(4) When the Department sends a notice of final determination concerning an assessment of tax and the taxpayer does not file a timely petition for a contested case hearing on the assessment.

(5) When a final decision is issued on a proposed assessment of tax after a contested case hearing.

(6) When the Office of Administrative Hearings dismisses a petition for a contested case for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.

"§ **105-241.23. Jeopardy assessment and collection.**

(a) Action. – The Secretary may at any time within the statute of limitations immediately assess and collect any tax the Secretary finds is due from a taxpayer if the Secretary determines that collection of the tax is in jeopardy and immediate assessment and collection are necessary in order to protect the interest of the State. In making a jeopardy collection, the Secretary may use any of the collection remedies in G.S. 105-242 and is not required to wait any period of time before using these remedies. Within 30 days after initiating a jeopardy collection, the Secretary must give the taxpayer the notice of proposed assessment required by G.S. 105-241.9.

(b) Review by Department. – Within five days after initiating a jeopardy collection that is not the result of a criminal investigation or of a liability for a tax imposed under Article 2D of this Chapter, the Secretary must provide the taxpayer with a written statement of the information upon which the Secretary relied in initiating the jeopardy collection. Within 30 days after receipt of this written statement or, if no statement is received, within 30 days after the statement was due, the taxpayer may request the Secretary to review the action taken. After receipt of this request, the Secretary must determine whether initiating the jeopardy collection was reasonable under all the circumstances and whether the amount assessed and collected was reasonable under all the circumstances. The Secretary must give the taxpayer written notice of this determination within 30 days after the request.

(c) Judicial Review. – Within 90 days after the earlier of the date a taxpayer received or should have received a determination of the Secretary concerning a jeopardy collection under subsection (b) of this section, the taxpayer may bring a civil action seeking review of the jeopardy collection. The taxpayer may bring the action in the Superior Court of Wake County or in the county in North Carolina in which the taxpayer resides. Within 20 days after the action is filed, the court must determine whether the initiation of the jeopardy collection was reasonable under the circumstances. If the court determines that an action of the Secretary was unreasonable or inappropriate, the court may order the Secretary to take any action the court finds appropriate. If the taxpayer shows reasonable grounds why the 20-day limit on the court should be extended, the court may grant an extension of not more than 40 additional days."

SECTION 2. The following statutes are repealed:

(1) G.S. 20-91.1
(2) G.S. 20-91.2
(3) G.S. 20-98
(4) G.S. 20-99
(5) G.S. 105-104
(6) G.S. 105-122(c)
(7) G.S. 105-130.4(t)
(8) G.S. 105-164.43
(9) G.S. 105-239
(10) G.S. 105-241.1
(11) G.S. 105-241.2
(12) G.S. 105-241.3
(13) G.S. 105-241.4
(14) G.S. 105-241.5
(15) G.S. 105-266
(16) G.S. 105-266.1

(17) G.S. 105-267
(18) G.S. 105-269.2
(19) G.S. 143A-38
(20) G.S. 150B-1(e)(6)
(21) G.S. 150B-28(b).

SECTION 3. G.S. 1-52(15) reads as rewritten:

"§ **1-52. Three years.**

Within three years an action –

…

(15) For the recovery of taxes paid as provided in ~~G.S. 105-267 and~~ G.S. 105-381.

…."

SECTION 4. G.S. 7A-45.4 reads as rewritten:

'**§ 7A-45.4. Designation of mandatory complex business cases.**

(a) A mandatory complex business case is an action that involves a material issue related to:

(1) The law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, limited liability companies, and limited liability partnerships, including issues concerning governance, involuntary dissolution of a corporation, mergers and acquisitions, breach of duty of directors, election or removal of directors, enforcement or interpretation of shareholder agreements, and derivative actions.
(2) Securities law, including proxy disputes and tender offer disputes.
(3) Antitrust law, except claims based solely on unfair competition under G.S. 75-1.1.
(4) State trademark or unfair competition law, except claims based solely on unfair competition under G.S. 75-1.1.
(5) Intellectual property law, including software licensing disputes.
(6) The Internet, electronic commerce, and biotechnology.
(7) Tax law, when the dispute has been the subject of a contested tax case for which judicial review is requested under G.S. 105-241.16 or the dispute is a civil action under G.S. 105-241.17.

(b) Any party may designate a civil action or a petition for judicial review under G.S. 105-241.16 as a mandatory complex business case by filing a Notice of Designation in the Superior Court in which the action has been filed and simultaneously serving the notice on each opposing party or counsel and on the Special Superior Court Judge for Complex Business Cases who is then the senior Business Court Judge. A copy of the notice shall also be sent contemporaneously by e-mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of the designation of the action as a mandatory complex business case and assignment to a specific Business Court Judge.

(c) The Notice of Designation shall, in good faith and based on information reasonably available, succinctly state the basis of the designation and include a certificate by or on behalf of the designating party that the civil action meets the criteria for designation as a mandatory complex business case pursuant to subsection (a) of this section.

(d) The Notice of Designation shall be filed:

(1) By the ~~plaintiff or third-party plaintiff~~ plaintiff, the third-party plaintiff, or the petitioner for judicial review contemporaneously with the filing of the ~~complaint or third-party complaint~~ complaint, third-party complaint, or the petition for judicial review in the action.

(2) By any intervenor when the intervenor files a motion for permission to intervene in the action.

(3) By any defendant or any other party within 30 days of receipt of service of the pleading seeking relief from the defendant or party.

(e) Within 30 days after service of the Notice of Designation, any other party may, in good faith, file and serve an opposition to the designation of the action as a mandatory business case. Based on the opposition or ex mero motu, the Business Court Judge may determine that the action should not be designated as a mandatory complex business case. If a party disagrees with the decision, the party may appeal to the Chief Justice of the Supreme Court.

(f) Once a designation is filed under subsection (d) of this section, and after preliminary approval by the Chief Justice, a case shall be designated and administered a complex business case. All proceedings in the action shall be before the Business Court Judge to whom it has been assigned unless and until an order has been entered under subsection (e) of this section ordering that the case not be designated a mandatory complex business case or the Chief Justice revokes approval. If complex business case status is revoked or denied, the action shall be treated as any other civil action, unless it is designated as an exceptional civil case or a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts."

SECTION 5. G.S. 20-64(f) reads as rewritten:

"(f) The owner or transferor of a registered vehicle who surrenders the registration plate to the division may secure a refund for the unexpired portion of such plate prorated on a monthly basis, beginning the first day of the month following surrender of the plate to the division, provided the annual fee of such surrendered plate is sixty dollars ($60.00) or more. This refund may not exceed one half of the annual license fee. No refund shall be made unless the owner or transferor furnishes proof of financial responsibility on the registered vehicle effective until the date of the surrender of the plate. Proof of financial responsibility shall be furnished in a manner prescribed by the Commissioner. ~~Any unauthorized refund may be recovered in the manner set forth in G.S. 20-99.~~"

SECTION 6. G.S. 105-32.8 reads as rewritten:

"§ **105-32.8. Federal determination that changes the amount of tax payable to the State.**

If the federal government corrects or otherwise determines the gross estate tax imposed under section 2001 of the Code or the amount of the maximum state death tax credit allowed an estate under section 2011 of the Code, the personal representative must, within six months after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within six months after being notified of the correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must ~~assess and collect~~ propose an assessment for any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 7. G.S. 105-109(b) reads as rewritten:

"(b) License Required. – Before a person may engage in a business, trade, or profession for which a license is required under this Article, the person must be licensed by the ~~Department pursuant to G.S. 105-104.~~ Department. To obtain a license, a person must submit an application to the Department for the license and pay the required tax. An application for a license is considered a return.

The Department must issue a license to a person who files a completed application and pays the required tax. A license must be displayed conspicuously at the location of the licensed business, trade, or profession."

SECTION 8. G.S. 105-113.111 reads as rewritten:

"§ **105-113.111. Assessments.**

Notwithstanding any other provision of law, an assessment against a dealer who possesses an unauthorized substance to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Secretary shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Secretary. The Secretary shall notify the dealer in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice and demand shall be either mailed to the dealer at the dealer's last known address or served on the dealer in person. If the dealer does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Secretary shall collect the tax, penalty, and interest pursuant to the ~~procedure set forth~~ jeopardy collection procedures in G.S. 105-241.23 or the general collection procedures in G.S. 105-242, ~~105-241.1(g) for jeopardy assessments or the procedure set forth in G.S. 105-242,~~ including causing execution to be issued immediately against the personal property of the dealer, unless the dealer files with the Secretary a bond in the amount of the asserted liability for the tax, penalty, and interest. The Secretary shall use all means available to collect the tax, penalty, and interest from any property in which the dealer has a legal, equitable, or beneficial interest. The dealer may seek review of the assessment as provided in Article 9 of this Chapter."

SECTION 9. G.S. 105-113.113 reads as rewritten:

"§ **105-113.113. Use of tax proceeds.**

(a) Special Account. – The Unauthorized Substances Tax Account is established as a special nonreverting account. The Secretary shall credit the proceeds of the tax levied by this Article to ~~a special nonreverting account, to be called the State Unauthorized Substances Tax Account, until the tax proceeds are unencumbered. The Secretary shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis. Tax proceeds are unencumbered when either of the following occurs:~~

~~(1) The tax has been fully paid and the taxpayer has no current right under G.S. 105-267 to seek a refund.~~

~~(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.~~

the Account.

(b) Distribution. – The Secretary shall distribute unencumbered tax proceeds in the Unauthorized Substances Tax Account on a quarterly or more frequent basis. Tax proceeds in the Account are unencumbered when they are collectible under G.S. 105-241.22. The Secretary shall ~~remit~~ distribute seventy-five percent (75%) of the ~~part of the~~ unencumbered tax proceeds in the Account that ~~was~~ were collected by assessment to the State or local law enforcement agency that conducted the investigation of a dealer that led to the assessment. If more than one State or local law enforcement agency conducted the investigation, the Secretary shall determine the equitable share for each agency based on the contribution each agency made to the investigation. The Secretary shall credit the remaining unencumbered tax proceeds in the Account to the General Fund.

(c) Refunds. – The refund of a tax that has already been distributed shall be drawn initially from the ~~State~~ Unauthorized Substances Tax Account. The amount of refunded taxes that ~~had been~~ were distributed to a law enforcement agency under this section and any interest shall be subtracted from succeeding distributions from the Account to that law enforcement agency. The amount of refunded taxes that ~~had been~~ were credited to the General Fund under this section and any interest shall be subtracted from succeeding credits to the General Fund from the Account."

SECTION 10. G.S. 105-122(a) reads as rewritten:

"(a) An annual franchise or privilege tax is imposed on a corporation doing business in this State. A corporation subject to the tax must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the corporation. The return is due on or before the fifteenth day of the fourth month following the end of the corporation's income year. ~~Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article, shall, on or before the fifteenth day of the third month following the end of its income year, annually make and deliver to the Secretary in the form prescribed by the Secretary a full, accurate, and complete report and statement signed by either its president, vice-president, treasurer, assistant treasurer, secretary or assistant secretary, containing the facts and information required by the Secretary as shown by the books and records of the corporation at the close of the income year.~~

~~There shall be annexed to the return required by this subsection the affirmation of the officer signing the return.~~"

SECTION 11. G.S. 105-122 is amended by adding a new subsection to read:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

(1) Statutory. – A corporation that is subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it applies in apportioning its income under that Article. A corporation that is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and

undivided profits by using the fraction it would be required to apply in apportioning its income if it were subject to that Article. The apportionment method set out in this subdivision is considered the statutory method of apportionment and is presumed to be the best method of determining the amount of a corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

(2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State and that the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subdivision. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method."

SECTION 12. G.S. 105-130.4 is amended by adding a new subsection to read:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the

alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method."

SECTION 13. G.S. 105-130.6A(e) reads as rewritten:

"(e) Cap for Bank Holding Companies. – After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.

The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.

If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. ~~105-241.1(e).~~ 105-241.8. The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under ~~105-241.1(i),~~ G.S. 105-241.21 computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 14. G.S. 105-130.17 reads as rewritten:

"§ **105-130.17. Time and place of filing returns.**

(a) Returns must be filed as prescribed by the Secretary at the place prescribed by the Secretary. Returns must be in the form prescribed by the Secretary. The Secretary ~~shall~~ must furnish forms in accordance with G.S. 105-254.

(b) Except as otherwise provided in this section, the return of a corporation shall be filed on or before the fifteenth day of the ~~third~~ fourth month following the close of its income year. An income year ending on any day other than the last day of the month shall be deemed to end on the last day of the calendar month ending nearest to the last day of a taxpayer's actual income year.

(c) In the case of mutual associations formed under G.S. 54-111 through 54-128 to conduct agricultural business on the mutual plan and marketing associations organized under G.S. 54-129 through 54-158, which are required to file under subsection (a)(9) of G.S. 105-130.11, a return made on the basis of a calendar year shall be filed on or before the fifteenth day of the September following the close of the calendar year, and a return made on the basis of a fiscal year shall be filed on or before the fifteenth day of the ninth month following the close of the fiscal year.

(d) A taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263.

(d1) Organizations described in G.S. 105-130.11(a)(1), (3), (4), (5), (6), (7) and (8) that are required to file a return under G.S. 105-130.11(b) shall file a return made on the basis of a calendar year on or before the fifteenth day of May following the close of the calendar year and a return made on the basis of a fiscal year on or before the fifteenth day of the fifth month following the close of the fiscal year.

(e) Any corporation that ceases its operations in this State before the end of its income year because of its intention to dissolve or to withdraw from this State, or because of a merger, conversion, or consolidation or for any other reason whatsoever shall file its return for the then current income year within ~~75~~105 days after the date it terminates its business in this State.

(f) Repealed by Session Laws 1998-217, s. 42, effective October 31, 1998.

(g) A corporation that files a federal return pursuant to section 6072(c) of the Code shall file its return on or before the fifteenth day of the ~~sixth~~ seventh month following the close of its income year."

SECTION 15. G.S. 105-130.20 reads as rewritten:

"§ **105-130.20. Federal corrections.**

If a taxpayer's federal taxable income is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income. The Secretary ~~shall determine from all available evidence the taxpayer's correct tax liability for the income year. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by reason of the determination."

SECTION 16. G.S. 105-159 reads as rewritten:

"§ **105-159. Federal corrections.**

If a taxpayer's federal taxable income is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income. The Secretary

~~shall determine from all available evidence the taxpayer's correct tax liability for the taxable year. As used in this section, the term "all available evidence' means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 17. G.S. 105-163.6A reads as rewritten:

"§ **105-163.6A. Federal corrections.**

If the amount of taxes an employer is required to withhold and pay under the Code is corrected or otherwise determined by the federal government, the employer must, within ~~two years~~ six months after being notified of the correction or final determination by the federal government, file a return with the Secretary reflecting the corrected or determined amount. The Secretary ~~shall determine from all available evidence the correct amount the employer should have paid under this Article for the period covered by the federal determination. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the employer as provided in Article 9 of this Chapter. If there has been an overpayment of the tax, the Secretary ~~shall~~ must either refund the overpayment to the employer in accordance with G.S. 105-163.9 or credit the amount of the overpayment to the individual in accordance with G.S. 105-163.10. An employer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination. Failure of an employer to comply with this section does not, however, affect an individual's right to a credit under G.S. 105-163.10."

SECTION 18. G.S. 105-163.9 reads as rewritten:

"§ **105-163.9. Refund of overpayment to withholding agent.**

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing ~~an application~~ a request for a refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the wages or compensation of the agent's employees or contractors. A withholding agent must file ~~an application~~ a request for a refund within the time period set in G.S. ~~105-266.~~ G.S. 105-241.6. Interest accrues on a refund as provided in ~~G.S. 105-266.~~G.S. 105-241.21."

SECTION 19. G.S. 105-164.29(d) reads as rewritten:

"(d) Revocation. ~~Whenever~~ The failure of a wholesale merchant or retailer ~~fails~~ to comply with this Article or ~~violates G.S. 14-401.18, the Secretary, upon hearing, after giving 10 days' notice in writing, specifying the time and place of hearing and requiring the wholesale merchant or retailer to show cause why the certificate of registration should not be revoked, may revoke or suspend the certificate of registration. The notice may be served personally or by registered mail directed to the last known address of the wholesale merchant or retailer. All provisions with respect to review and appeals of the Secretary's decisions as provided by G.S. 105-241.2, 105-241.3, and 105-241.4 apply to this section.~~ G.S. 14-401.18 is grounds for revocation of the wholesale merchant's or

retailer's certificate of registration. Before the Secretary revokes a wholesale merchant's or retailer's certificate of registration, the Secretary must notify the wholesale merchant or retailer that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the wholesale merchant or retailer objects to the proposed revocation and files a request for a Departmental review within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of a proposed revocation."

SECTION 20. G.S. 105-164.38(c) reads as rewritten:

"(c) Assessment. – The period of limitations for assessing liability against the buyer of a business or the stock of goods of a business and for enforcing the lien against the property expires one year after the end of the period of limitations for assessment against the person who sold the business or the stock of goods. Except as otherwise provided in this section, the assessment procedures in Article 9 of this Chapter apply to a person who buys a business or the stock of goods of a business ~~and that person's liability for unpaid taxes are subject to the provisions of G.S. 105-241.1, 105-241.2, 105-241.3, and 105-241.4 and to other remedies for the collection of taxes~~ to the same extent as if the person had incurred the original tax liability."

SECTION 21. G.S. 105-187.10(b) reads as rewritten:

"(b) Unpaid Taxes. – The remedies for collection of taxes in ~~G.S. 20-99~~ Article 9 of this Chapter apply to the taxes levied by this Article and collected by the Commissioner. In applying these remedies, the Commissioner has the same authority as the Secretary."

SECTION 22. G.S. 105-197.1 reads as rewritten:

"§ **105-197.1. Federal corrections.**

If the amount of a taxpayer's net gifts is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file a gift tax return with the Secretary ~~of Revenue~~ reflecting the corrected or determined net gifts. The Secretary ~~of Revenue shall determine from all available evidence the taxpayer's correct tax liability for the taxable year. As used in this section, the term "all available evidence" means evidence of any kind that becomes available to the Secretary from any source, whether or not the evidence was considered in the federal correction or determination.~~

~~The Secretary shall assess and collect~~ must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary ~~shall~~ must refund any overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 23. G.S. 105-228.5(f) reads as rewritten:

"(f) **(Effective for taxable years beginning on or after January 1, 2008)** Installment Payments Required. – Taxpayers that are subject to the tax imposed by this section and have a premium tax liability of ten thousand dollars ($10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The company shall remit the

balance by the following March 15 in the same manner provided in this section for annual returns.

The Secretary ~~of Revenue~~ may permit an insurance company to pay less than the required estimated payment when the insurer reasonably believes that the total estimated payments made for the current year will exceed the total anticipated tax liability for the year.

An underpayment or an overpayment of an installment payment required by this subsection ~~shall bear interest at the rate established under G.S. 105-241.1(i). Any overpayment shall bear interest as provided in G.S. 105-266(b) and, together with the interest,~~ accrues interest in accordance with G.S. 105-241.21. An overpayment of tax shall be credited to the company and applied against the taxes imposed upon the company under this Article."

SECTION 24. G.S. 105-228.37 reads as rewritten:

"§ **105-228.37. Refund of overpayment of tax.**

(a) Refund Request. – A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(b) Hearing by County. – A board of county commissioners must ~~review~~ conduct a hearing on a request for refund ~~and must follow the time limitations set in G.S. 105-266.1 for holding a hearing and making a decision.~~ in accordance with the procedures that apply to a hearing held by a board of equalization and review on an appeal concerning the listing or appraisal of property. If the board decides that a refund is due, it must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. If the board finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may ~~ask the Secretary to review the decision. The board must send the Secretary a copy of a decision on a request for refund.~~appeal the decision to the Property Tax Commission.

(c) Review by ~~Secretary.~~ Commission. – ~~A taxpayer whose request for a refund is denied by a board of county commissioners may obtain a review of the board's decision by the Secretary. The request must be made in writing and must be filed within 30 days after the taxpayer receives the board's decision denying the refund. The Secretary must send the board of county commissioners a copy of the Secretary's decision made on the request. If the Secretary~~ The procedure in G.S. 105-290 for the appeal to the Property Tax Commission of a decision of a board of equalization and review concerning the listing or appraisal of property applies to the appeal of a denial by a board of county commissioners of a request for a refund of tax paid under this Article. If the Commission determines that a refund is due, the board of county commissioners must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. A decision of the Commission is binding on the Secretary ~~is binding~~ and on a board of county commissioners.

(d) Judicial Review. – A ~~taxpayer who disagrees with a~~ decision of the ~~Secretary~~ Property Tax Commission ~~may bring an action against the county and the State to recover the disputed overpayment. The action may be brought in the Superior Court of Wake County or in the superior court of the county where the tax was paid.~~is subject to judicial review in accordance with G.S. 7A-29.

(e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an

instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. – An overpayment of tax bears interest at the rate established in G.S. ~~105-241.1(i)~~ 105-241.21 from the date that interest begins to accrue. Interest begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners."

SECTION 25. G.S. 105-228.90(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

…

(7) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter, the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the ~~terms "tax" and "additional tax" include~~ term "tax" includes penalties and interest as well as the principal amount.

…."

SECTION 26. G.S. 105-236(a)(4) reads as rewritten:

"(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the tax, ~~except that the penalty shall in no event be less than~~ subject to a minimum of five dollars ($5.00). This penalty does not apply in any of the following circumstances:

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When ~~a tax due but not shown on a return is assessed by~~ the Secretary proposes an assessment for tax due but not shown on a return and the tax due ~~and~~ is paid within ~~30~~45 days after the date of the ~~proposed~~ notice of proposed assessment of the tax."

SECTION 27. G.S. 105-239.1 reads as rewritten:

"§ **105-239.1. Transferee liability.**

(a) Lien and Liability. – Property transferred for an inadequate consideration to a donee, heir, legatee, devisee, distributee, stockholder of a liquidated corporation, or any other person at a time when the transferor is insolvent or is rendered insolvent by reason of the transfer ~~shall be~~ is subject to a lien for any taxes owing by the transferor to the State of North Carolina at the time of the transfer whether or not the amount of the taxes has been ascertained or assessed at the time of the transfer. G.S. 105-241 applies to this tax lien. In the event the transferee has disposed of the property so that it cannot be subjected to the State's tax lien, the transferee ~~shall be~~ is personally liable for the

difference between the fair market value of the property at the time of the transfer and the actual consideration, if any, paid to the transferor by the transferee.

~~Upon a foreclosure of the State's tax lien upon property in the hands of a transferee, the value of any consideration that the transferee proves has been given to the transferor shall be paid to the transferee out of the proceeds of the foreclosure sale before applying the proceeds toward the satisfaction of the State's tax lien.~~

~~In order to proceed against the transferee or property in the transferee's hands, the Secretary shall cause to be docketed in the office of the clerk of the superior court of the county wherein the transferee resides or the property is located, as the case may be, a certificate of tax liability as provided in G.S. 105-242 or a lien certificate which shall set forth the amount of the lien as determined by the Secretary or as finally determined upon appeal and a description of the property subject to the lien. Thereafter, execution may be issued against the transferee as in the case of other money judgments except that no homestead or personal exemption shall be allowable or, upon a lien certificate, an execution may be issued directing the sheriff to seize the property subject to the lien and sell same in the same manner as property is sold under execution. Such procedure and collection shall be subject to the provisions of subsection (c) of this section.~~

(b) Procedure. – The Department may proceed to enforce a lien that arises under this section against property transferred by a taxpayer to another person or to hold that person liable for the tax due by sending the person a notice of proposed assessment in accordance with G.S. 105-241.9. The Department has the burden of establishing that a person to whom property was transferred is liable. The period of limitations for assessment of any liability against a transferee or enforcing the lien against the transferred property ~~shall expire~~ expires one year after the expiration of the period of limitations for assessment against the transferor.

(c) Proceeds. – When property transferred by a taxpayer to another person is sold to satisfy the lien that arises under this section, the person is entitled to receive from the proceeds of the sale the amount of consideration, if any, the person paid for the property. The proceeds must be applied for this purpose before they are applied to satisfy the lien. ~~The provisions of G.S. 105-241.1, 105-241.2, 105-241.3, 105-241.4, 105-266.1 and 105-267 with respect to assessment procedure, demand for refund, review, and appeal shall apply to the liability of any transferee assessed under this section or of any property subject to the liability imposed by this section and to the assertion of a lien upon property in the hands of the transferee.~~

~~(d) In any proceeding before the Tax Review Board or in any court of the State the burden of proof shall be upon the Secretary of Revenue to show that a person is liable as a transferee of property of a taxpayer under this section.~~"

SECTION 28. G.S. 105-242(a) reads as rewritten:

"(a) ~~Warrants for Collection of Taxes.~~ Levy and Sale. ~~If any tax levied by the State and payable to the Secretary has not been paid within 30 days after the taxpayer was given a notice of final assessment of the tax under G.S. 105-241.1(d1),~~ If a taxpayer does not pay a tax within 30 days after it is collectible under G.S. 105-241.22, the Secretary may take either of the following actions to collect the tax:

(1) ~~The Secretary may issue~~ Issue a warrant ~~or an order under the Secretary's hand and official seal, directed to~~ directing the sheriff of any county of the ~~State, commanding him~~ State to levy upon and sell the real and personal property of the taxpayer found within the county for the payment of the ~~tax, including penalties and interest,~~ tax and the cost of executing the warrant and to return to the Secretary the money

collected, within a time to be specified in the ~~warrant,~~ warrant but not less than 60 days from the date of the ~~warrant; the sheriff upon receipt of the warrant shall proceed in all respects with like effect and in the same manner prescribed by law in respect to~~ warrant. The procedure for executions issued against property upon judgments of a ~~court of record, and shall be entitled to the same fees for services in executing the warrant, to be collected in the same manner.~~court apply to executions under a warrant.

(2) ~~The Secretary may issue~~ Issue a warrant ~~or order under the Secretary's hand and seal~~ to any revenue officer or other employee of the Department ~~of Revenue~~ charged with the duty to collect taxes, commanding the officer or employee to levy upon and sell the taxpayer's personal ~~property, including that described in G.S. 105-366(d),~~ property found within the State for the payment of the ~~tax, including penalties and interest.~~ tax. Except as otherwise provided in this subdivision, the levy upon ~~the~~ and sale of personal property ~~shall be governed by~~ by an officer or employee of the Department is subject to and must be conducted in accordance with the laws ~~regulating levy and~~ governing the sale of property levied upon under execution. The ~~person to whom the warrant is directed shall proceed to levy upon and sell the personal property subject to levy in the same manner and with the same powers and authority normally exercised by sheriffs in levying upon and selling personal property under execution, except that the property may be sold in any county, in the discretion of the Secretary. In addition to the notice of sale required by the laws governing sale of property levied upon under execution, the~~ Secretary may sell the property levied upon in any county and may advertise the sale in any reasonable manner and for any reasonable period of time to produce an adequate bid for the property. Levy and sale fees, plus actual advertising costs, ~~shall~~ must be added to and collected in the same manner as taxes. The Secretary is not required to file a report of sale with the clerk of superior court, ~~as required by the laws governing sale of property levied upon under execution,~~ if the sale is otherwise publicly reported."

SECTION 29. G.S. 105-242(b) reads as rewritten:

"(b) Garnishment and Attachment. – ~~Bank deposits, rents, salaries, wages, and all other choses in action or property incapable of manual levy or delivery, including property held in the Escheat Fund, hereinafter called the intangible, belonging, owing, or to become due to any taxpayer subject to any of the provisions of this Subchapter, or which has been transferred by such taxpayer under circumstances which would permit it to be levied upon if it were tangible, shall be subject to attachment or garnishment as herein provided, and the person owing said intangible, matured or unmatured, or having same in his possession or control, hereinafter called the garnishee, shall become liable for all sums due by the taxpayer under this Subchapter to the extent of the amount of the intangible belonging, owing, or to become due to the taxpayer subject to the setoff of any matured or unmatured indebtedness of the taxpayer to the garnishee; provided, however, the garnishee shall not become liable for any sums represented by or held pursuant to any negotiable instrument issued and delivered by the garnishee to the taxpayer and negotiated by the taxpayer to a bona fide holder in due course, and~~

~~whenever any sums due by the taxpayer and subject to garnishment are so held or represented, the garnishee shall hold such sums for payment to the Secretary of Revenue upon the garnishee's receipt of such negotiable instrument, unless such instrument is presented to the garnishee for payment by a bona fide holder in due course in which event such sums may be paid in accordance with such instrument to such holder in due course. To effect such attachment or garnishment the Secretary of Revenue shall serve or cause to be served upon the taxpayer and the garnishee a notice as hereinafter provided, which notice may be served by any deputy or employee of the Secretary of Revenue or by any officer having authority to serve summonses or may be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall:~~

- ~~(1) Show the name of the taxpayer, and if known his Social Security number or federal tax identification number and his address;~~
- ~~(2) Show the nature and amount of the tax, and the interest and penalties thereon, and the year or years for which the same were levied or assessed, and~~
- ~~(3) Be accompanied by a copy of this subsection, and thereupon the procedure shall be as follows:~~

~~If the garnishee has no defense to offer or no setoff against the taxpayer, he shall within 10 days after service of said notice, answer the same by sending to the Secretary of Revenue by registered or certified mail a statement to that effect, and if the amount due or belonging to the taxpayer is then due or subject to his demand, it shall be remitted to the Secretary with said statement, but if said amount is to mature in the future, the statement shall set forth that fact and the same shall be paid to the Secretary upon maturity, and any payment by the garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under oath, and, within 10 days after service of said notice, shall send two copies of said statement to the Secretary by registered or certified mail; if the Secretary admits such defense or setoff, he shall so advise the garnishee in writing within 10 days after receipt of such statement and the attachment or garnishment shall thereupon be discharged to the amount required by such defense or setoff, and any amount attached or garnished hereunder which is not affected by such defense or setoff shall be remitted to the Secretary as above provided in cases where the garnishee has no defense or setoff, and with like effect. If the Secretary shall not admit the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such further time as may be agreed on by the garnishee, and at the same time he shall file a copy of said notice, a copy of the garnishee's statement, and a copy of his objections thereto in the superior court of the county where the garnishee resides or does business where the issues made shall be tried as in civil actions.~~

~~If judgment is entered in favor of the Secretary of Revenue by default or after hearing, the garnishee shall become liable for the taxes, interest and penalties due by the taxpayer to the extent of the amount over and above any defense or setoff of the garnishee belonging, owing, or to become due to the taxpayer, but payments shall not be required from amounts which are to become due to the taxpayer until the maturity thereof, nor shall more than ten percent (10%) of any taxpayer's salary or wages be required to be paid hereunder in any one month as provided in subdivision (e)(4) of this section. The garnishee may satisfy said judgment upon paying said amount, and if he~~

~~fails to do so, execution may issue as provided by law. From any judgment or order entered upon such hearing either the Secretary of Revenue or the garnishee may appeal as provided by law. If, before or after judgment, adequate security is filed for the payment of said taxes, interest, penalties, and costs, the attachment or garnishment may be released or execution stayed pending appeal, but the final judgment shall be paid or enforced as above provided. The taxpayer's sole remedies to question his liability for said taxes, interest, and penalties shall be those provided in this Subchapter, as now or hereafter amended or supplemented. If any third person claims any intangible attached or garnished hereunder and his lawful right thereto, or to any part thereof, is shown to the Secretary, he shall discharge the attachment or garnishment to the extent necessary to protect such right, and if such right is asserted after the filing of said copies as aforesaid, it may be established by interpleader as now or hereafter provided by law in cases of attachment and garnishment. In case such third party has no notice of proceedings hereunder, he shall have the right to file his petition under oath with the Secretary at any time within 12 months after said intangible is paid to him and if the Secretary finds that such party is lawfully entitled thereto or to any part thereof, he shall pay the same to such party as provided for refunds by G.S. 105-266.1, and if such payment is denied, said party may appeal from the determination of the Secretary under the provisions of G.S. 105-241.4; provided, that in taking an appeal to the superior court, said party may appeal either to the Superior Court of Wake County or to the superior court of the county wherein he resides or does business. The intangibles of a taxpayer shall be paid or collected hereunder only to the extent necessary to satisfy said taxes, interest, penalties, and costs. Except as hereinafter set forth, the remedy provided in this section shall not be resorted to unless a warrant for collection or execution against the taxpayer has been returned unsatisfied: Provided, however, if the Secretary is of opinion that the only effective remedy is that herein provided, it shall not be necessary that a warrant for collection or execution shall be first returned unsatisfied, and in no case shall it be a defense to the remedy herein provided that a warrant for collection or execution has not been first returned unsatisfied.~~

~~This subsection shall be applicable with respect to the wages, salary or other compensation of officials and employees of this State and its agencies and instrumentalities, officials and employees of political subdivisions of this State and their agencies and instrumentalities, and also officials and employees of the United States and its agencies and instrumentalities insofar as the same is permitted by the Constitution and laws of the United States. In the case of State or federal employees, the notice shall be served upon such employee and upon the head or chief fiscal officer of the department, agency, instrumentality or institution by which the taxpayer is employed. In case the taxpayer is an employee of a political subdivision of the State, the notice shall be served upon such employee and upon the chief fiscal officer, or any officer or person charged with making up the payrolls, or disbursing funds, of the political subdivision by which the taxpayer is employed. Such head or chief officer or fiscal officer or other person as specified above shall thereafter, subject to the limitations herein provided, make deductions from the salary or wages due or to become due the taxpayer and remit same to the Secretary until the tax, penalty, interest and costs allowed by law are fully paid. Such deductions and remittances shall, pro tanto, constitute a satisfaction of the salary or wages due the taxpayer.~~ Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer

and is collectible under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.

No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment."

SECTION 30. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-242.1. Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20 or by registered or certified mail. The notice must contain all of the following information:

(1) The taxpayer's name, address, and social security number or federal identification number.

(2) The type of tax the taxpayer owes and the tax periods for which the tax is owed.

(3) The amount of tax, interest, and penalties the taxpayer owes.

(4) An explanation of the liability of a garnishee for tax owed by a taxpayer.

(5) An explanation of the garnishee's responsibility concerning the notice.

(b) Action. – Within 30 days after receiving a notice of garnishment, a garnishee must comply with the garnishment or file a written response to the notice. A written response must explain why the garnishee is not subject to garnishment and attachment. Upon receipt of the written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of garnishment."

SECTION 31. G.S. 105-242(c) reads as rewritten:

"(c) Certificate ~~or Judgment for Taxes.~~ of Tax Liability.~~ In addition to the remedy herein provided, the Secretary of Revenue is authorized and empowered to make a certificate setting forth the essential particulars relating to the said tax, including the amount thereof, the date when the same was due and payable, the person, firm, or corporation chargeable therewith, and the nature of the tax, and under his hand and seal transmit the same to the clerk of the superior court of any county in which the~~

~~delinquent taxpayer resides or has property; whereupon, it shall be the duty of the clerk of the superior court of the county to docket the said certificate and index the same on the cross index of judgments, and execution may issue thereon with the same force and effect as an execution upon any other judgment of the superior court (said tax shall become a lien on realty only from the date of the docketing of such certificate in the office of the clerk of the superior court and on personalty only from the date of the levy on such personalty and upon the execution thereon no homestead or personal property exemption shall be allowed except as provided in subdivision (e)(1) of this section).~~ The Department may file a certificate of tax liability to collect a tax that is owed by a taxpayer and is collectible under G.S. 105-241.22. A certificate of tax liability must state the taxpayer's name and the type and amount of tax owed. If the taxpayer resides in this State or has property in this State, the Department must file the certificate of tax liability with the clerk of the superior court of a county in which the taxpayer resides or has property. If the taxpayer does not reside in this State or have property in this State, the Department must file the certificate of tax liability in Wake County.

The clerk of court must record a certificate of tax liability in the same manner as a judgment. A recorded certificate of tax liability is considered a judgment and is enforceable in the same manner as other judgments. The legal rate of interest set in G.S. 24-1 applies to the principal amount of tax stated on the certificate of tax liability. The tax stated on a certificate of tax liability is a lien on real and personal property from the date the certificate is recorded.

~~Except as provided in G.S. 105-241.2(e) for jeopardy levies, no sale of real or personal property shall be made under any execution issued on a certificate docketed pursuant to the provisions of this subsection before the administrative action of the Secretary of Revenue or the Tax Review Board is completed when a hearing has been requested of the Secretary or a petition for review has been filed with the Tax Review Board, nor shall such sale be made before the assessment on which the certificate is based becomes final when there is no request for a hearing before the Secretary or petition for review by the Tax Review Board. Neither the title to real estate nor to personal property sold under execution issued upon a certificate docketed under this subsection shall be drawn in question upon the ground that the administrative action contemplated by this paragraph was not completed prior to the sale of such property under execution. Nothing in this paragraph shall prevent the sheriff to whom an execution is issued from levying upon either real or personal property pending an administrative determination of tax liability and, in the case of personal property, the sheriff may hold such property in his custody or may restore the execution defendant to the possession thereof upon the giving of a sufficient forthcoming bond. Upon a final administrative determination of the tax liability being had, if the assessment or any part thereof is sustained, the sheriff shall, upon request of the Secretary of Revenue, proceed to advertise and sell the property under the original execution notwithstanding the original return date of the execution may have expired.~~

~~The owner of tangible property seized under this section may request the Secretary to authorize the sale of the property under execution within 60 or more days after the request is made. The Secretary shall authorize the sale unless the Secretary finds that selling the property would not be in the best interests of the State. When property is sold at the request of the owner, the Department shall receive from the sale of the property the administrative expenses it incurred in having the property sold.~~

~~A certificate or judgment in favor of the State or the Secretary of Revenue for taxes payable to the Department of Revenue, whether docketed before or after the effective~~

~~date of this paragraph, shall be valid and enforceable for a period of 10 years from the date of docketing. When any such certificate or judgment, whether docketed before or after the effective date of this paragraph, remains unsatisfied for 10 years from the date of its docketing, the same shall be unenforceable and the tax represented thereby shall abate. Upon the expiration of said 10-year period, the Secretary of Revenue or his duly authorized deputy shall cancel of record said certificate or judgment. Any such certificate or judgment now on record which has been docketed for more than 10 years shall, upon the request of any interested party, be canceled of record by the Secretary of Revenue or his duly authorized deputy; provided, in the event of the death of the judgment debtor or his absence from the State before the expiration of the 10-year period herein provided, the running of said 10-year period shall be stopped for the period of his absence from the State or during the pendency of the settlement of the estate and for one year thereafter, and the time elapsed during the pendency of any action or actions to set aside the judgment debtor's conveyance or conveyances as fraudulent, or the time during the pendency of any insolvency proceeding, or the time during the existence of any statutory or judicial bar to the enforcement of the judgment shall not be counted in computing the running of said 10-year period. And, provided further, that any execution sale which has been instituted upon any such judgment before the expiration of the 10-year period may be completed after the expiration of the 10-year period, notwithstanding the fact that resales may be required because of the posting of increased bids. Provided further, that, notwithstanding the expiration of the 10-year period provided and notwithstanding the fact that no proceedings to collect the judgment by execution or otherwise has been commenced within the 10-year period, the Secretary of Revenue may accept any payments tendered upon said judgments after the expiration of said 10-year period.~~A certificate of tax liability is enforceable for a period of 10 years from the date it is recorded. If the certificate is not satisfied within this period, the remaining liability of the taxpayer is abated and the Department must cancel the certificate. An execution sale initiated before the end of the 10-year period may be completed after the end of this period, regardless of whether resales are required because of the posting of increased bids. The Secretary may accept tax payments made after a certificate has expired, regardless of whether any collection actions were taken before the certificate expired. A taxpayer may waive the 10-year period for enforcement of the certificate for either a definite or an indefinite time.

The 10-year period in which a certificate of tax liability is enforceable is tolled during the following periods:

(1) While the taxpayer is absent from the State. The period is tolled during the taxpayer's absence plus one year after the taxpayer returns.

(2) Upon the death of the taxpayer. The period is tolled while the taxpayer's estate is administered plus one year after the estate is closed.

(3) While an action is pending to set aside a conveyance made by the taxpayer as a fraudulent conveyance.

(4) While an insolvency proceeding against the taxpayer is pending.

(5) During the period of any statutory or judicial bar to the enforcement of the certificate.

(6) The period for which a taxpayer has waived the 10-year period."

SECTION 32. G.S. 105-243 reads as rewritten:

"§ **105-243. Taxes recoverable by action.**

~~Upon the failure of any corporation to pay the taxes, fees, and penalties prescribed by this Subchapter, the Secretary of Revenue may certify same to the sheriff of the~~

~~county in which such company may own property, for collection as provided in this Subchapter; and if collection is not made, such taxes or fees and penalties thereon may be recovered in an action in the name of the State, which may be brought in the Superior Court of Wake County, or in any county in which such corporation is doing business, or any county in which such corporation owns property. The Attorney General, on request of the Secretary of Revenue, shall institute such action in the Superior Court of Wake County, or of any such county as the Secretary of Revenue may direct. In any such action it shall be sufficient to allege that the tax, fee, or penalty sought to be recovered is delinquent, and that the same has been unpaid for the period of 30 days after due date.~~ When requested by the Secretary, the Attorney General must bring an action to recover the amount of tax that is due from a taxpayer and is collectible under G.S. 105-241.22. In the action, the taxpayer may not challenge the liability for the tax. A judgment in the action has the same priority as a tax lien. The judgment is not subject to a claim for a homestead exemption. The action must be brought in one of the following:

(1) The Superior Court of Wake County.
(2) The taxpayer's county of residence.
(3) A county where the taxpayer owns real property.
(4) The county in which the taxpayer has its principal place of business.
(5) A court of competent jurisdiction of another state."

SECTION 33. G.S. 105-243.1 reads as rewritten:

"§ **105-243.1. Collection of tax debts.**

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

(1) Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after ~~the notice of final assessment was mailed to the taxpayer.~~ it becomes collectible under G.S. 105-241.22. The term does not include a tax ~~debt, however, if~~ debt for which the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after ~~the notice of final assessment was mailed and~~ the tax debt became collectible, if the taxpayer has not failed to make any payments due under the installment agreement.

(2) Tax debt. – The total amount of tax, penalty, and interest ~~due for which a notice of final assessment has been mailed to a taxpayer after the taxpayer no longer has the right to contest the debt.~~collectible under G.S. 105-241.22.

(b) Outsourcing. – The Secretary may contract for the collection of tax debts owed by nonresidents and foreign entities. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(c) Secrecy. – A contract for the collection of tax debts is conditioned on compliance with G.S. 105-259. If a contractor violates G.S. 105-259, the contract is terminated, and the Secretary must notify the contractor of the termination. A contractor whose contract is terminated for violation of G.S. 105-259 is not eligible for an award of another contract under this section for a period of five years from the termination. These sanctions are in addition to the criminal penalties set out in G.S. 105-259.

(d) Fee. – A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice required by this subsection is mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the Department must notify the taxpayer that the fee will be imposed if the tax debt is not

paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The Department may not mail the fee notice earlier than 60 days after ~~the notice of final assessment for the tax debt was mailed to the taxpayer.~~ the tax debt becomes collectible under G.S. 105-241.22. The fee is collectible as part of the debt. The Secretary may waive the fee pursuant to G.S. 105-237 to the same extent as if it were a penalty.

The amount of the collection assistance fee is twenty percent (20%) of the amount of the overdue tax debt. If a taxpayer pays only part of an overdue tax debt, the payment is credited proportionally to fee revenue and tax revenue.

(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department may apply the fee proceeds for the following purposes:

(1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.

(2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.

(3) To pay for taxpayer locater services, not to exceed one hundred fifty thousand dollars ($150,000) a year.

(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed three hundred fifty-three thousand dollars ($353,000) a year.

(5) To pay for operating expenses for Project Collection Tax and the Taxpayer Assistance Call Center.

(6) To pay for expenses of the Examination and Collection Division directly and primarily relating to collecting overdue tax debts.

(f) Reports. – The report of Department activities required by G.S. 105-256 contains information on the Department's efforts to collect tax debts and its use of the proceeds of the collection assistance fee."

SECTION 34. G.S. 105-253(b) reads as rewritten:

"(b) Each responsible officer is personally and individually liable for all of the following:

(1) All sales and use taxes collected by a corporation or a limited liability company upon its taxable transactions.

(2) All sales and use taxes due upon taxable transactions of a corporation or a limited liability company but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.

(3) All taxes due from a corporation or a limited liability company pursuant to the provisions of Articles 36C and 36D of Subchapter V of

this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.

(4) All income taxes required to be withheld from the wages of employees of a corporation or a limited liability company.

The liability of the responsible officer is satisfied upon timely remittance of the tax by the corporation or the limited liability company. If the tax remains unpaid after it is due and payable, the Secretary may ~~assess the tax against and collect the tax from any responsible officer in accordance with the procedures in this Article for assessing and collecting tax from a taxpayer.~~ proceed to enforce the responsible officer's liability for the tax by sending the responsible officer a notice of proposed assessment in accordance with G.S. 105-241.9. As used in this section, the term "responsible officer" means the ~~president and the treasurer~~ president, treasurer, and chief financial officer of a corporation, the manager of a limited liability company, and any other officer of a corporation or member of a limited liability company who has a duty to deduct, account for, or pay taxes listed in this subsection. Any penalties that may be imposed under G.S. 105-236 and that apply to a deficiency also apply to an assessment made under this section. ~~The provisions of this Article apply to an assessment made under this section to the extent they are not inconsistent with this section.~~

The period of limitations for assessing a responsible officer for unpaid taxes under this section expires one year after the expiration of the period of limitations for assessment against the corporation or limited liability company."

SECTION 35. The caption for G.S. 105-256 reads as rewritten:

"§ **105-256. ~~Reports~~ Publications prepared by Secretary of Revenue.**"

SECTION 36. G.S. 105-256(a) reads as rewritten:

"(a) ~~Reports.~~ Publications. – The Secretary shall prepare and publish the following:

…

(9) A final decision of the Secretary in a contested tax case. The Secretary must redact identifying taxpayer information from a final decision prior to publication."

SECTION 37. G.S. 105-258.1(a) reads as rewritten:

"(a) Scope. – This section applies to in-person interviews between a taxpayer and an officer or employee of the Department relating to the determination or collection of a tax, other than an in-person interview concerning any of the following:

(1) A criminal investigation.

(2) The determination or collection of a tax imposed by Article 2D of this Chapter.

~~(3) The assessment under G.S. 105-241.1(g) of a tax whose collection is in jeopardy.~~

(4) ~~The levy or execution under G.S. 105-241.2(e) of an assessment whose collection is in jeopardy.~~A jeopardy assessment and collection."

SECTION 38. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

(1) To comply with a court ~~order~~ order, an administrative law judge's order in a contested tax case, or a law.

…."

SECTION 39. G.S. 105-262(a) reads as rewritten:

"(a) The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. ~~The Tax Review Board shall review a new rule or a change to a rule before it is filed in the North Carolina Administrative Code.~~ G.S. 150B-1 and Article 2A of Chapter 150B of the General Statutes set out the procedure for the adoption of rules by the Secretary."

SECTION 40. G.S. 105-449.39 reads as rewritten:

"§ **105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly report for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the report. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the ~~Secretary must refund the excess to the motor carrier in accordance with G.S. 105-266(a)(3).~~excess is refundable in accordance with G.S. 105-241.7."

SECTION 41. G.S. 105-449.119 reads as rewritten:

"§ **105-449.119. ~~Hearing on~~ Review of civil penalty assessment.**

A person who denies liability for a penalty imposed under this Part must pay the penalty ~~under protest~~ and ~~make a written demand to the Department of Revenue for a refund. The written demand must be made within 30 days after the penalty is imposed and must explain why the person is not liable for the penalty. Upon receiving a demand for a refund, the Secretary must schedule a hearing on the matter before an employee or an agent of the Department. The hearing must be held within 30 days after receiving the written demand for a refund. If, after the hearing, the Department determines that the person was not liable for the penalty, the amount collected must be refunded. If, after the hearing, the Department determines that the person was liable for the penalty, the person paying the penalty may appeal the imposition of the penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4.~~ file a request for a Departmental review of the penalty. The request must be filed within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of the penalty. The date the penalty was imposed is considered the date the notice of proposed assessment was delivered to the taxpayer."

SECTION 42. Article 3 of Chapter 150B of the General Statutes is amended by adding the following new section:

"**§ 150B-31.1. Contested tax cases.**

(a) Application. – This section applies only to contested tax cases. A contested tax case is a case involving a disputed tax matter arising under G.S. 105-241.15. To the extent any provision in this section conflicts with another provision in this Article, this section controls.

(b) Simple Procedures. – The Chief Administrative Law Judge may limit and simplify the procedures that apply to a contested tax case involving a taxpayer who is not represented by an attorney. An administrative law judge assigned to a contested tax case must make reasonable efforts to assist a taxpayer who is not represented by an attorney in order to assure a fair hearing.

(c) Venue. – A hearing in a contested tax case must be conducted in Wake County, unless the parties agree to hear the case in another county.

(d) Law Enforcement Reports. – A report of a law enforcement agency is admissible without testimony from personnel of the law enforcement agency.

(e) Confidentiality. – The record, proceedings, and decision in a contested tax case are confidential until the final decision is issued in the case."

SECTION 43. G.S. 150B-45 reads as rewritten:

"§ **150B-45. Procedure for seeking review; waiver.**

(a) Procedure. – To obtain judicial review of a final decision under this Article, the person seeking review must file a petition within 30 days after the person is served with a written copy of the decision. The petition must be filed as follows:

(1) Contested tax cases. – A petition for review of a final decision in a contested tax case arising under G.S. 105-241.15 must be filed in the Superior Court of Wake County.

(2) Other final decisions. – A petition for review of any other final decision under this Article must be filed in the Superior Court of Wake County or in the superior court of the county where the person resides.

~~The person seeking review must file the petition within 30 days after the person is served with a written copy of the decision.~~

(b) Waiver. – A person who fails to file a petition within the required time waives the right to judicial review under this Article. For good cause shown, however, the superior court may accept an untimely petition."

SECTION 44. In the General Statutes, references to the following statutes repealed by this act are deleted and substituted as provided in this section. The Revisor of Statutes is authorized to change the references in accordance with this section.

(1) References to the following statutory provisions repealed by this act are substituted with a reference to G.S. 105-241.21:
   a. G.S. 105-241.1(i).
   b. G.S. 105-241.1 in G.S. 105-160.4, 105-187.10, and 150B-2.
   c. G.S. 105-266 in G.S. 105-266.2, 105A-5, and 105A-8.

(2) References to former G.S. 105-241.1(g) and G.S. 105-241.2(e) are substituted with a reference to G.S. 105-241.23.

SECTION 45. The Revenue Laws Study Committee is directed to study whether any legislative changes should be made regarding the use and scope of class actions to challenge the constitutionality of a tax in light of the decision reached by the North Carolina Supreme Court in Dunn v. State of North Carolina. The Committee must report its findings, along with any legislative recommendations, to the 2007 General Assembly, 2008 Regular Session.

SECTION 46. This act does not require the establishment of new positions or the appropriation of funds for those positions. The Office of the Attorney General must report on or before January 1, 2009 to the Revenue Laws Study Committee and to the Fiscal Research Division of the North Carolina General Assembly concerning the staffing needs of the Revenue Section as the result of tax hearings being conducted at the Office of Administrative Hearings.

SECTION 47. G.S. 105-241.10, as enacted by Section 1 of this act, and Sections 6, 15, 16, 17, and 22 are effective for taxable years beginning on or after January 1, 2007. Section 14 is effective for taxable years beginning on or after January 1, 2008. Sections 45, 46, and 47 are effective when they become law. The remainder of this act becomes effective January 1, 2008. The procedures for review of disputed tax

matters enacted by this act apply to assessments of tax that are not final as of the effective date of this act and to claims for refund pending on or filed on or after the effective date of this act. This act does not affect matters for which a petition for review was filed with the Tax Review Board under G.S. 105-241.2 before the effective date of this act. The repeal of G.S. 105-122(c) and G.S. 105-130.4(t) and Sections 11 and 12 apply to requests for alternative apportionment formulas filed on or after the effective date of this act. A petition filed with the Tax Review Board for an apportionment formula before the effective date of this act is considered a request under G.S. 105-122(c1) or G.S. 105-130.4(t1), as appropriate.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:41 p.m. on the 30th day of August, 2007.

Session Law 2007-492 **House Bill 769**

AN ACT TO ENSURE COMPLIANCE WITH MOTOR CARRIER AND COMMERCIAL DRIVERS LICENSE PROVISIONS OF CHAPTER 20 OF THE GENERAL STATUTES AND TO AUTHORIZE THE COMMISSIONER OF MOTOR VEHICLES TO ENTER INTO THE UNIFIED MOTOR CARRIER REGISTRATION AGREEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.4(l) reads as rewritten:

"(l) Disqualification ~~for Testing Positive in a~~ Based on Drug or Alcohol Test. – Upon receipt of notice of a positive drug or alcohol test, or of refusal to participate in a drug or alcohol test, pursuant to G.S. 20-37.19(c), the Division ~~shall~~ must disqualify a ~~driver~~ CDL holder from operating a commercial motor vehicle until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. § 382.503."

SECTION 2. G.S. 20-37.19(c) reads as rewritten:

"(c) The employer of any employee or applicant who tests positive or of any employee who refuses to participate in a drug or alcohol test required under 49 C.F.R. Part 382 and 49 C.F.R. Part 655 ~~shall~~ must notify the Division ~~of Motor Vehicles~~ in writing within five business days following the employer's receipt of confirmation of a positive drug ~~test.~~or alcohol test or of the employee's refusal to participate in the test. The notification ~~shall~~ must include the driver's name, address, drivers license number, social security number, and results of the drug or alcohol ~~test.~~test or documentation from the employer of the refusal by the employee to take the test."

SECTION 3. G.S. 20-382 reads as rewritten:

"§ **20-382. ~~Registration of for-hire interstate motor carriers and verification that their for-hire vehicles are insured.~~For-hire motor carrier registration, insurance verification, and temporary trip permit authority.**

(a) UCRA. – The Commissioner may enter into the Unified Carrier Registration Agreement (UCRA), established pursuant to Section 4305 of Public Law 109-73, and into agreements with jurisdictions participating in the UCRA to exchange information for any audit or enforcement activity required by the UCRA. Upon entry into the UCRA, the requirements set under the UCRA apply to the Division. If a requirement set under the UCRA conflicts with this section, the UCRA controls. Rules adopted to

implement this section must ensure compliance with mandates of the Federal Motor Carrier Safety Administration and the United States Department of Transportation.

(a1) Carrier Registration. – A ~~for-hire~~ motor carrier may not operate a for-hire motor vehicle in interstate commerce in this State unless the motor carrier has complied with all of the following requirements:

(1) Registered its operations with ~~the Division by doing~~ its base state.

(1a) Done one of the following:

a. ~~Filing~~ Filed a copy of the certificate of authority issued to it by the United States Department of Transportation allowing it to ~~operate~~ transport regulated items in this State and any amendments to that authority.

b. ~~Certifying~~ Certified to the Division that it carries only items that are not regulated by the United States Department of Transportation.

(2) Verified, in accordance with subsection (b) ~~or (c)~~ of this section, that it has insurance for each for-hire motor vehicle it operates.

(3) Paid the fees set in G.S. 20-385.

(b) Insurance ~~Verification for Federally Regulated Motor Carriers.~~ Verification. – A ~~for-hire~~ motor carrier that operates a for-hire motor vehicle in interstate commerce in this ~~State,~~ State and is regulated by the United States Department of ~~Transportation, and designates this State as its registration state must obtain a receipt from the Division verifying that each for-hire motor vehicle the motor carrier operates in any jurisdiction is insured. To obtain a receipt, the motor carrier must apply annually to the Division during the application period and state the number of for-hire motor vehicles the motor carrier intends to operate in each jurisdiction during the next calendar year. The certificate of authority issued to the motor carrier by the United States Department of Transportation is proof that the motor carrier has insurance for its for-hire motor vehicles.~~

~~The motor carrier must keep a copy of the receipt in each of its for-hire motor vehicles. The motor carrier may transfer the receipt from one for-hire motor vehicle to another as long as the total number of for-hire motor vehicles operated in any jurisdiction and in all jurisdictions does not exceed the number stated on the receipt.~~

~~A motor carrier may operate more for-hire motor vehicles in a jurisdiction than stated in its most recent annual application only if the motor carrier files another application with the Division and obtains a receipt stating the increased number. A motor carrier that obtains a receipt for an increased number of for-hire motor vehicles must put a copy of the new receipt in each of its for-hire motor vehicles. The new receipt replaces rather than supplements the previous receipt.~~Transportation must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured in accordance with the requirements set by the United States Department of Transportation. A motor carrier that operates a for-hire motor vehicle in interstate commerce in this State and is exempt from regulation by the United States Department of Transportation must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured in accordance with the requirements set by the North Carolina Utilities Commission.

(c) Trip Permit. – ~~Insurance Verification for Nonregulated Motor Carriers. – A for-hire motor carrier that operates a for-hire motor vehicle in interstate commerce in this State and is exempt from regulation by the United States Department of Transportation must verify to the Division that each for-hire motor vehicle the motor~~

~~carrier operates in this State is insured. To do this, the motor carrier must obtain annually for each for-hire motor vehicle a cab card approved by the Commissioner and a North Carolina identification stamp issued by the Division. To obtain an identification stamp, the motor carrier must apply annually to the Division during the application period for an identification stamp for each for-hire motor vehicle the motor carrier intends to operate in this State during the next 12-month period beginning February 1.~~

~~The motor carrier must place the identification stamp on the cab card and keep the cab card in the for-hire motor vehicle for which it was issued. An identification stamp is issued for a specific for-hire motor vehicle and is not transferable from one for-hire motor vehicle to another.~~

~~A motor carrier may operate in this State a for-hire motor vehicle for which it did not obtain an identification stamp during the most recent annual application period only if it obtains for that vehicle either a cab card and identification stamp or an emergency permit. A motor carrier may obtain an additional identification stamp after the close of the annual application period by filing an application for it with the Division. An identification stamp issued after the close of the annual application period expires the same date as one issued during the annual application period.~~

A motor carrier that is not registered as required by this section may obtain an emergency trip permit by filing an application for it with the Division. An emergency trip permit allows the motor carrier to operate a for-hire motor vehicle in this State for a period not to exceed 10 days. ~~without a cab card and identification stamp between the time the motor carrier has applied for an identification stamp and the time the Division issues the identification stamp.~~"

SECTION 4. G.S. 20-382.2(a)(2) is repealed.

SECTION 5. G.S. 20-385 reads as rewritten:

"§ **20-385. Fee schedule.**

~~(a)~~ ~~Amounts. –~~ The fees listed in this section apply to a motor carrier. These fees are in addition to any fees required under the Unified Carrier Registration Agreement.

~~(1)~~	~~Verification by a for-hire motor carrier of insurance for each for-hire motor vehicle operated in this State~~	~~$ 1.00~~
(2)	Application by an intrastate motor carrier for a certificate of exemption	~~45.00~~$45.00
(3)	Certification by an interstate motor carrier that it is not regulated by the United States Department of Transportation	45.00
(4)	Application by an interstate motor carrier for an ~~Emergency~~ emergency trip permit	18.00

~~(b) Reciprocal Agreements. – The fee set in subdivision (a)(1) of this section does not apply to the verification of insurance by an interstate motor carrier regulated by the United States Department of Transportation if the Division had a reciprocal agreement on November 15, 1991, with another state by which no fee is imposed. The Division had reciprocal agreements as of that date with the following states: California, Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Pennsylvania, Texas, and Vermont.~~"

SECTION 6. If the Commissioner of Motor Vehicles enters into the Unified Carrier Registration Agreement, the Agreement must specify the date on which any fees required under the Agreement become effective in this State. The date must ensure adequate time to implement the fee provisions.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:42 p.m. on the 30th day of August, 2007.

Session Law 2007-493 **Senate Bill 999**

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE MOTOR VEHICLE LAWS PERTAINING TO IMPAIRED DRIVING OFFENSES AND TO PROVIDE THAT THE COURT MAY ORDER SECURE CUSTODY OF A JUVENILE WHEN THE JUVENILE IS CHARGED WITH A VIOLATION OF EITHER DRIVING WHILE IMPAIRED OR UNDERAGE DRINKING AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE DISPOSITIONAL ALTERNATIVES FOR JUVENILES WHO ARE ADJUDICATED DELINQUENT FOR A DRIVING WHILE IMPAIRED OR AN UNDERAGE DRINKING VIOLATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(24a)b. reads as rewritten:

"(24a) Offense Involving Impaired Driving. – Any of the following offenses:

a. Impaired driving under G.S. 20-138.1.

b. ~~Death by vehicle under~~ Any offense set forth under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially similar offense under previous law."

SECTION 2. G.S. 20-17(a)(9) reads as rewritten:

"(a) The Division shall forthwith revoke the license of any driver upon receiving a record of the driver's conviction for any of the following offenses:

…

(9) ~~Death by vehicle as defined in G.S. 20-141.4.~~Any offense set forth under G.S. 20-141.4."

SECTION 3. G.S. 20-139.1(b6) reads as rewritten:

"(b6) The Department of Health and Human Services shall post on a Web page ~~and file with the clerk of superior court in each county~~ a list of all persons who have a permit authorizing them to perform chemical analyses, the types of analyses that they can perform, the instruments that each person is authorized to operate, the effective dates of the permits, and the records of preventive maintenance. A court or administrative agency shall take judicial notice of whether, at the time of the chemical analysis, the chemical analyst possessed a permit authorizing the chemical analyst to perform the chemical analysis administered and whether preventive maintenance had been performed on the breath-testing instrument in accordance with the Department's rules."

SECTION 4. G.S. 20-28(c4) reads as rewritten:

"(c4) For a conditional restoration under subsection (c3) of this section, the Division shall require at a minimum that the driver obtain a substance abuse assessment prior to issuance of a license and show proof of financial responsibility. If the substance abuse assessment recommends education or treatment, the person must complete the education or treatment within the time limits specified. If the assessment determines that the person abuses alcohol, the Division shall require the person to install and use an

ignition interlock system on any vehicles that are to be driven by that person for the period of time ~~set forth in G.S. 20-17.8(c).~~that the conditional restoration is active."

SECTION 5. Section 33 of S.L. 2006-253 reads as rewritten:

"**SECTION 33.** Section 6 becomes effective August 21, 2006, and applies to hearings held on or after that date. Sections 20.1, 20.2, and the requirement that the Administrative Office of the Courts electronically record certain data contained in subsection (c) of G.S. 20-138.4, as amended by Section 19 of this act, become effective after the next rewrite of the superior court clerks system by the Administrative Office of the Courts. Section 22.4 becomes effective December 1, 2006. The remainder of this act becomes effective December 1, 2006, and applies to offenses committed on or after that date."

SECTION 6. G.S. 20-179(c) reads as rewritten:

"(c) Determining Existence of Grossly Aggravating Factors. – At the sentencing hearing, based upon the evidence presented at trial and in the hearing, the judge, or the jury in superior court, must first determine whether there are any grossly aggravating factors in the case. Whether a prior conviction exists under subdivision (1) of this ~~subsection~~ subsection, or whether a conviction exists under subdivision (d)(5) of this section, shall be ~~a matter~~ matters to be determined by the judge, and not the jury, in district or superior court. If the sentencing hearing is for a case remanded back to district court from superior court, the judge shall determine whether the defendant has been convicted of any offense that was not considered at the initial sentencing hearing and impose the appropriate sentence under this section. The judge must impose the Level One punishment under subsection (g) of this section if it is determined that two or more grossly aggravating factors apply. The judge must impose the Level Two punishment under subsection (h) of this section if it is determined that only one of the grossly aggravating factors applies. The grossly aggravating factors are:

(1) A prior conviction for an offense involving impaired driving if:

a. The conviction occurred within seven years before the date of the offense for which the defendant is being sentenced; or

b. The conviction occurs after the date of the offense for which the defendant is presently being sentenced, but prior to or contemporaneously with the present ~~sentencing.~~sentencing; or

c. The conviction occurred in district court; the case was appealed to superior court; the appeal has been withdrawn, or the case has been remanded back to district court; and a new sentencing hearing has not been held pursuant to G.S. 20-38.7.

Each prior conviction is a separate grossly aggravating factor."

SECTION 7. G.S. 20-28.2(b) reads as rewritten:

"(b) When Motor Vehicle Becomes Property Subject to Order of Forfeiture; Impaired Driving and Prior Revocation. – A judge may determine whether the vehicle driven by an impaired driver at the time of the offense becomes subject to an order of forfeiture. The determination may be made at any of the following times:

(1) A sentencing hearing for the underlying offense involving impaired driving.

(2) A separate hearing after conviction of the defendant.

(3) A forfeiture hearing held at least 60 days after the defendant failed to appear at the scheduled trial for the underlying offense, and the defendant's order of arrest for failing to appear has not been set aside.

The vehicle shall become subject to an order of forfeiture if the greater weight of the evidence shows that the defendant is guilty of an ~~underlying~~ offense ~~involved~~ involving impaired driving, and that the defendant's license was revoked pursuant to an impaired driving license revocation as defined in subsection (a) of this section."

SECTION 8. G.S. 20-28.2(b1) reads as rewritten:

"(b1) When a Motor Vehicle Becomes Property Subject to Order of Forfeiture; No License and No Insurance. – A judge may determine whether the vehicle driven by an impaired driver at the time of the offense becomes subject to an order of forfeiture. The determination may be made at any of the following times:

(1) A sentencing hearing for the underlying offense involving impaired driving.

(2) A separate hearing after conviction of the defendant.

(3) A forfeiture hearing held at least 60 days after the defendant failed to appear at the scheduled trial for the underlying offense, and the defendant's order of arrest for failing to appear has not been set aside.

The vehicle shall become subject to an order of forfeiture if the greater weight of the evidence shows that the defendant is guilty of an ~~underlying~~ offense ~~involved~~ involving impaired driving, and: (i) the defendant was driving without a valid drivers license, and (ii) the defendant was not covered by an automobile liability policy.

…."

SECTION 9. G.S. 20-38.7 reads as rewritten:

"§ **20-38.7. Appeal to superior court.**

(a) The State may appeal to superior court any district court preliminary determination granting a motion to suppress or dismiss. If there is a dispute about the findings of fact, the superior court shall not be bound by the findings of the district court but shall determine the matter de novo. Any further appeal shall be governed by Article 90 of Chapter 15A of the General Statutes.

(b) The defendant may not appeal a denial of a pretrial motion to suppress or to dismiss but may appeal upon conviction as provided by law.

(c) Notwithstanding the provisions of G.S. 15A-1431, for any implied-consent offense that is first tried in district court and that is appealed to superior court by the defendant for a trial de novo as a result of a conviction, the sentence imposed by the district court is vacated upon giving notice of appeal. The case shall only be remanded back to district court with the consent of the prosecutor and the superior court. When an appeal is withdrawn or a case is remanded back to district court, the district court shall hold a new sentencing hearing and shall consider any new convictions.~~convictions and, if the defendant has any pending charges of offenses involving impaired driving, shall delay sentencing in the remanded case until all cases are resolved.~~

(d) Following a new sentencing hearing in district court pursuant to subsection (c) of this section, a defendant has a right of appeal to the superior court only if:

(1) The sentence is based upon additional facts considered by the district court that were not considered in the previously vacated judgment, and

(2) The defendant would be entitled to a jury determination of those facts pursuant to G.S. 20-179.

A defendant who has a right of appeal under this subsection, gives notice of appeal, and subsequently withdraws the appeal shall have the sentence imposed by the district court reinstated by the district court as a final judgment that is not subject to further appeal."

SECTION 10. G.S. 20-17.8(b)(3) reads as rewritten:

"(3) An alcohol concentration restriction as follows:

a. If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of 0.04 or greater;

b. If the ignition interlock system is required pursuant to subdivision (a)(2) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or

c. If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) ~~felony death by vehicle, G.S. 20-141.4(a1),~~ a violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00."

SECTION 11. G.S. 20-19(c3)(4) reads as rewritten:

"(4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, ~~felony death by vehicle, G.S. 20-141.4(a1),~~ a violation of G.S. 20-141.4, or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving."

SECTION 12. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a3), the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

SECTION 13. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been

convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a4), the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to ~~three~~ five years from the date of restoration."

SECTION 14. G.S. 20-19(i) reads as rewritten:

"(i) When a person's license is revoked under ~~subdivision (1) or (9) of G.S. 20-17~~ G.S. 20-17(a)(1) or G.S. 20-17(a)(9), and the offense is one involving impaired driving and a fatality, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least ~~three years in accordance with the procedure in subsection (c) of this section.~~five years under this subsection if he provides the Division with satisfactory proof that:

(1) In the five years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to seven years from the date of restoration."

SECTION 15. G.S. 20-141.4(a6) reads as rewritten:

"(a6) Repeat Felony Death by Vehicle Offender. – A person commits the offense of repeat felony death by vehicle if:

(1) The person commits an offense under subsection (a1) or subsection (a5) of this section; and

(2) The person has a previous conviction under:

a. Subsection (a1) of this section;

b. Subsection (a5) of this section; or

c. G.S. 14-17 or G.S. 14-18, and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2.

The pleading and proof of previous convictions shall be in accordance with the provisions of G.S. 15A-928.

A person convicted under this subsection shall be subject to the same sentence as if the person had been convicted of second degree murder. ~~who commits an offense under Subsection (a1) or Subsection (a5) of this section, and who has a previous conviction under~~

~~(1) Subsection (a1) of this section; or~~

~~(2) Subsection (a5) of this section; or~~

~~(3) G.S. 14-17 or G.S. 14-18, where the basis of that former conviction, as determined from the face of the indictment, was the unintentional death of another person while engaged in the offense of impaired driving under GS 20-138.1 or GS 20-138.2,~~

~~shall be subject to the same sentence as if the person had been convicted of second degree murder.~~"

SECTION 16. G.S. 20-138.4(a) reads as rewritten:

"§ **20-138.4. Requirement that prosecutor explain reduction or dismissal of charge ~~involving impaired driving.~~in implied-consent case.**

(a) Any prosecutor shall enter detailed facts in the record of any case subject to the implied-consent law or involving driving while license revoked for impaired driving as defined in G.S. 20-28.2 explaining orally in open court and in writing the reasons for his action if he:

(1) Enters a voluntary dismissal; or

(2) Accepts a plea of guilty or no contest to a lesser included offense; or

(3) Substitutes another charge, by statement of charges or otherwise, if the substitute charge carries a lesser mandatory minimum punishment or is not ~~an offense involving impaired driving; a~~ a case subject to the implied-consent law; or

(4) Otherwise takes a discretionary action that effectively dismisses or reduces the original charge in ~~the~~ a case ~~involving impaired driving.~~subject to the implied-consent law.

General explanations such as "interests of justice" or "insufficient evidence" are not sufficiently detailed to meet the requirements of this section."

SECTION 17. The Revisor of Statutes shall substitute the term "law enforcement officer" for the term "charging officer" everywhere that term appears in G.S. 20-16.5.

SECTION 18. G.S. 20-139.1(d) reads as rewritten:

"(d) Right to Additional Test. – Nothing in this section shall be construed to prohibit a person from obtaining or attempting to obtain an additional chemical analysis. If the person is not released from custody after the initial appearance, the agency having custody of the person shall make reasonable efforts in a timely manner to assist the person in obtaining access to a telephone to arrange for any additional test and allow access to the person in accordance with the agreed procedure in G.S. ~~20-38.4.~~ 20-38.5. The failure or inability of the person who submitted to a chemical analysis to obtain any additional test or to withdraw blood does not preclude the admission of evidence relating to the chemical analysis."

SECTION 19. G.S. 20-28(a2)(1) reads as rewritten:

"(1) The person ~~drives~~ operates a motor vehicle upon a highway while that person's license is revoked for an impaired drivers license revocation after the Division has sent notification in accordance with G.S. 20-48; or

...."

SECTION 20. G.S. 20-179 reads as rewritten:

"§ **20-179. Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.**

(a) Sentencing Hearing Required. – After a conviction under G.S. 20-138.1, G.S. 20-138.2, a second or subsequent conviction under G.S. 20-138.2A, or a second or subsequent conviction under G.S. 20-138.2B, ~~G.S. 20-138.3,~~ or when any of those offenses are remanded back to district court after an appeal to superior court, the judge shall hold a sentencing hearing to determine whether there are aggravating or mitigating factors that affect the sentence to be imposed.

...

(p) Limit on Amelioration of Punishment. – For active terms of imprisonment imposed under this section:

(1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.

(2) The defendant shall serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period.

(3) The defendant may not be released on parole unless he is otherwise eligible, has served the mandatory minimum period of imprisonment, and has obtained a substance abuse assessment and completed any recommended treatment or training ~~program~~ program.~~or is paroled into a residential treatment program.~~

...

(s) Method of Serving Sentence. – The judge in his discretion may order a term of imprisonment to be served on weekends, even if the sentence cannot be served in consecutive sequence. However, if the defendant is ordered to a term of 48 hours or more, or has 48 hours or more remaining on a term of imprisonment, the defendant shall be required to serve 48 continuous hours of imprisonment to be given credit for time served.

...

(3) If a defendant has been reported back to court under subdivision (2) of this subsection, the court shall hold a hearing. The defendant shall be ordered to serve his jail time immediately and shall not be eligible to serve jail time on weekends if the court determines that, at the time of his entrance to the jail,~~ if~~

a. The defendant had previously consumed alcohol in his body as shown by an alcohol screening device, or

b. The defendant had a previously consumed controlled substance in his body.

...."

SECTION 21. G.S. 20-28.2(a)(1) reads as rewritten:

"(a) Meaning of "Impaired Driving License Revocation". – The revocation of a person's drivers license is an impaired driving license revocation if the revocation is pursuant to:

(1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12), ~~20-17.2,~~ or 20-138.5; or

...."

SECTION 22. G.S. 20-139.1(c2) reads as rewritten:

"(c2) A chemical analysis of blood or urine, to be admissible under this section, shall be performed in accordance with rules or procedures adopted by the State Bureau of Investigation, or by another laboratory ~~certified~~ accredited by the American Society of Crime Laboratory ~~Directors~~ Directors/Laboratory Accreditation Board

~~(ASCLD),~~(ASCLD/LAB) for the submission, identification, analysis, and storage of forensic analyses."

SECTION 23. G.S. 20-139.1(c1) reads as rewritten:

"(c1) Admissibility. – The results of a chemical analysis of blood or urine by the North Carolina State Bureau of Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory, or any other laboratory approved for chemical analysis by the Department of Health and Human Services, are admissible as evidence in all administrative hearings, and in any court, without further authentication. The results shall be certified by the person who performed the ~~analysis,~~ analysis.~~and reported on a form approved by the Attorney General.~~ However, if the defendant notifies the State, at least five days before trial in the superior court division or an adjudicatory hearing in juvenile court that the defendant objects to the introduction of the report into evidence, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

...."

SECTION 24. G.S. 20-179.3(c) reads as rewritten:

"(c) Privilege Not Effective until after Compliance with Court-Ordered Revocation. – A person convicted of an impaired driving offense may apply for a limited driving privilege at the time the judgment is entered. ~~If the judgment does not require the person to complete a period of nonoperation pursuant to G.S. 20-179, the privilege may be issued at the time the judgment is issued. If the judgment requires the person to complete a period of nonoperation pursuant to G.S. 20-179, the limited driving privilege may not be effective until the person successfully completes that period of nonoperation.~~ A person whose license is revoked because of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 may apply for a limited driving privilege only after having completed at least 60 days of a court-imposed term of nonoperation of a motor vehicle, if the court in the other jurisdiction imposed such a term of nonoperation."

SECTION 25. G.S. 20-16.2(e) reads as rewritten:

"(e) Right to Hearing in Superior Court. – If the revocation for a willful refusal is sustained after the hearing, the person whose license has been revoked has the right to file a petition in the superior court district or set of districts defined in G.S. 7A-41.1, where the charges were made, within 30 days thereafter for a hearing on the record. The superior court review shall be limited to whether there is sufficient evidence in the record to support the Commissioner's findings of fact and whether the conclusions of law are supported by the findings of fact and whether the Commissioner committed an error of law in revoking the license."

SECTION 26. G.S. 20-179(d) reads as rewritten:

"(d) Aggravating Factors to Be Weighed. – The judge, or the jury in superior court, shall determine before sentencing under subsection (f) whether any of the aggravating factors listed below apply to the defendant. The judge shall weigh the seriousness of each aggravating factor in the light of the particular circumstances of the case. The factors are:

(1) Gross impairment of the defendant's faculties while driving or an alcohol concentration of ~~0.16~~ 0.15 or more within a relevant time after the driving. For purposes of this subdivision, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove the person's alcohol concentration, shall be conclusive, and shall not be

subject to modification by any party, with or without approval by the court.

(2) Especially reckless or dangerous driving.

(3) Negligent driving that led to a reportable accident.

(4) Driving by the defendant while his driver's license was revoked.

(5) Two or more prior convictions of a motor vehicle offense not involving impaired driving for which at least three points are assigned under G.S. 20-16 or for which the convicted person's license is subject to revocation, if the convictions occurred within five years of the date of the offense for which the defendant is being sentenced, or one or more prior convictions of an offense involving impaired driving that occurred more than seven years before the date of the offense for which the defendant is being sentenced.

(6) Conviction under G.S. 20-141.5 of speeding by the defendant while fleeing or attempting to elude apprehension.

(7) Conviction under G.S. 20-141 of speeding by the defendant by at least 30 miles per hour over the legal limit.

(8) Passing a stopped school bus in violation of G.S. 20-217.

(9) Any other factor that aggravates the seriousness of the offense.

Except for the factor in subdivision (5) the conduct constituting the aggravating factor shall occur during the same transaction or occurrence as the impaired driving offense."

SECTION 27. G.S. 20-16.2(c1) reads as rewritten:

"(c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person refuses to submit to a chemical analysis, a person has an alcohol concentration of ~~0.16~~0.15 or more, or a person's drivers license has an alcohol concentration restriction and the results of the chemical analysis establish a violation of the restriction, the law enforcement officer and the chemical analyst shall without unnecessary delay go before an official authorized to administer oaths and execute an affidavit(s) stating that:

(1) The person was charged with an implied-consent offense or had an alcohol concentration restriction on the drivers license;

(2) A law enforcement officer had reasonable grounds to believe that the person had committed an implied-consent offense or violated the alcohol concentration restriction on the drivers license;

(3) Whether the implied-consent offense charged involved death or critical injury to another person, if the person willfully refused to submit to chemical analysis;

(4) The person was notified of the rights in subsection (a); and

(5) The results of any tests given or that the person willfully refused to submit to a chemical analysis.

If the person's drivers license has an alcohol concentration restriction, pursuant to G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a provision of that restriction other than violation of the alcohol concentration level, the officer and chemical analyst shall complete the applicable sections of the affidavit and indicate the restriction which was violated. The officer shall immediately mail the affidavit(s) to the Division. If the officer is also the chemical analyst who has notified the person of the rights under subsection (a), the officer may perform alone the duties of this subsection."

SECTION 28. G.S. 20-17.8(a) reads as rewritten:

"(a) Scope. – This section applies to a person whose license was revoked as a result of a conviction of driving while impaired, G.S. 20-138.1, and:

(1) The person had an alcohol concentration of ~~0.16~~0.15 or more; or

(2) The person has been convicted of another offense involving impaired driving, which offense occurred within seven years immediately preceding the date of the offense for which the person's license has been revoked.

For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the Division to determine that person's alcohol concentration."

SECTION 29. G.S. 20-179.3(g5) reads as rewritten:

"(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of ~~0.16~~0.15 or more, a judge shall include all of the following in a limited driving privilege order:

(1) A restriction that the applicant may operate only a designated motor vehicle.

(2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner, which is set to prohibit driving with an alcohol concentration of greater than 0.00. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

(3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court."

SECTION 30. G.S. 20-179.3 is amended by adding a new subsection to read:

"(c1) Privilege Restrictions for High-Risk Drivers. – Notwithstanding any other provision of this section, any limited driving privilege issued to a person convicted of an impaired driving offense with an alcohol concentration of 0.15 or more at the time of the offense shall:

(1) Not become effective until at least 45 days after the final conviction under G.S. 20-138.1;

(2) Require the applicant to comply with the ignition interlock requirements of subsection (g5) of this section; and

(3) Restrict the applicant to driving only to and from the applicant's place of employment, the place the applicant is enrolled in school, any court ordered treatment or substance abuse education, and any ignition interlock service facility.

For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court."

SECTION 31. G.S. 7B-1903(b) reads as rewritten:

"(b) When a request is made for secure custody, the court may order secure custody only where the court finds there is a reasonable factual basis to believe that the juvenile committed the offense as alleged in the petition, and that one of the following circumstances exists:

(1) The juvenile is charged with a felony and has demonstrated that the juvenile is a danger to property or persons.

(2) The juvenile has demonstrated that the juvenile is a danger to persons and is charged with either (i) a misdemeanor at least one element of which is assault on a person or (ii) a misdemeanor in which the juvenile used, threatened to use, or displayed a firearm or other deadly weapon.

(2a) The juvenile has demonstrated that the juvenile is a danger to persons and is charged with a violation of G.S. 20-138.1 or G.S. 20-138.3.

(3) The juvenile has willfully failed to appear on a pending delinquency charge or on charges of violation of probation or post-release supervision, providing the juvenile was properly notified.

(4) A delinquency charge is pending against the juvenile, and there is reasonable cause to believe the juvenile will not appear in court.

(5) The juvenile is an absconder from (i) any residential facility operated by the Department or any detention facility in this State or (ii) any comparable facility in another state.

(6) There is reasonable cause to believe the juvenile should be detained for the juvenile's own protection because the juvenile has recently suffered or attempted self-inflicted physical injury. In such case, the juvenile must have been refused admission by one appropriate hospital, and the period of secure custody is limited to 24 hours to determine the need for inpatient hospitalization. If the juvenile is placed in secure custody, the juvenile shall receive continuous supervision and a physician shall be notified immediately.

(7) The juvenile is alleged to be undisciplined by virtue of the juvenile's being a runaway and is inappropriate for nonsecure custody placement or refuses nonsecure custody, and the court finds that the juvenile needs secure custody for up to 24 hours, excluding Saturdays, Sundays, and State holidays, or where circumstances require, for a period not to exceed 72 hours to evaluate the juvenile's need for medical or psychiatric treatment or to facilitate reunion with the juvenile's parents, guardian, or custodian.

(8) The juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice; the juvenile shall be brought to court as soon as possible and in no event should be held more than 24 hours, excluding Saturdays, Sundays, and State holidays or where circumstances require for a period not to exceed 72 hours."

SECTION 32. The Legislative Research Commission may study dispositional alternatives for juveniles who are adjudicated delinquent for an offense that is a violation of G.S. 20-138.1, Impaired Driving, or G.S. 20-138.3, Driving By Persons Less Than 21 Years Old After Consuming Alcohol or Drugs. In conducting its study, the Commission shall consider the offense classifications and dispositions set forth in G.S. 7B-2508 and shall determine whether violations of G.S. 20-138.1 and G.S. 20-138.3 should be classified as violent, serious, or minor. In addition, the

Commission shall review the delinquency history level points assigned to the offense classifications pursuant to G.S. 7B-2507 and shall determine the appropriate points to be assigned for violations of G.S. 20-138.1 and G.S. 20-138.3. The Legislative Research Commission may make an interim report, including any legislative proposals, to the 2007 General Assembly, Regular Session 2008, and shall make its final report to the 2009 General Assembly upon its convening.

SECTION 33. Sections 26, 27, 28, 29, 30, and 31 of this act become effective December 1, 2007, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 12:43 p.m. on the 30th day of August, 2007.

Session Law 2007-494 **Senate Bill 229**

AN ACT TO DETERMINE THE RESIDENCY STATUS OF PERSONS JAILED ON FELONY OR DRIVING WHILE IMPAIRED CHARGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 162 of the General Statutes is amended by adding a new section to read:

"**§ 162-62. Legal status of prisoners.**

(a) When any person charged with a felony or an impaired driving offense is confined for any period in a county jail, local confinement facility, district confinement facility, or satellite jail/work release unit, the administrator or other person in charge of the facility shall attempt to determine if the prisoner is a legal resident of the United States by an inquiry of the prisoner, or by examination of any relevant documents, or both.

(b) If the administrator or other person in charge of the facility is unable to determine if that prisoner is a legal resident or citizen of the United States or its territories, the administrator or other person in charge of the facility holding the prisoner, where possible, shall make a query through the Division of Criminal Information (DCI) system to the Law Enforcement Support Center (LESC) of Immigration and Customs Enforcement of the United States Department of Homeland Security. If the LESC determines that the prisoner has not been lawfully admitted to the United States, the United States Department of Homeland Security will have been notified of the prisoner's status and confinement at the facility by its receipt of the DCI query from the facility.

(c) Nothing in this section shall be construed to deny bond to a prisoner or to prevent a prisoner from being released from confinement when that prisoner is otherwise eligible for release.

(d) The administrator or other person in charge of the facility shall annually report the number of queries performed under subsection (b) of this section and the results of those queries to the Governor's Crime Commission of the Department of

Crime Control and Public Safety. The Governor's Crime Commission shall make the reports available to the public."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:44 p.m. on the 30th day of August, 2007.

Session Law 2007-495 **Senate Bill 844**

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO PROVIDE THAT: (1) AN APPLICATION FOR A CONSTRUCTION PERMIT FOR A PRIVATE DRINKING WATER WELL THAT IS TO BE LOCATED ON A SITE ON WHICH A WASTEWATER SYSTEM IS LOCATED MAY BE ACCOMPANIED BY A SITE PLAN RATHER THAN A PLAT; (2) PROOF OF COMPLETION OF ANY REQUIRED PROFESSIONAL DEVELOPMENT IS REQUIRED FOR RENEWAL OF A WELL CONTRACTOR CERTIFICATE; (3) THE TRANSPLANT OF SEED CLAMS AND SEED OYSTERS OF A CERTAIN SIZE THAT ORIGINATE FROM AN AQUACULTURE OPERATION PERMITTED BY THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES IS LAWFUL; (4) MEMBERS OF THE ADVISORY COMMISSION FOR THE NORTH CAROLINA STATE MUSEUM OF NATURAL SCIENCES SHALL SERVE FOUR-YEAR STAGGERED TERMS; (5) TO EXTEND THE EXEMPTION FOR CERTAIN WELL CONTRACTORS FROM CONTINUING EDUCATION REQUIREMENTS FOR TWO YEARS; (6) DRAFT FISHERY MANAGEMENT PLANS ARE NOT SUBMITTED FOR REVIEW TO THE ENVIRONMENTAL REVIEW COMMISSION; (7) TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT AND NATURAL RESOURCES; AND (8) TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. AMEND ENVIRONMENTAL LAWS.

SECTION 1. G.S. 87-97(d) reads as rewritten:

"(d) Well Site Evaluation. – The local health department shall conduct a field investigation to evaluate the site on which a private drinking water well is proposed to be located before issuing a permit pursuant to this section. The field investigation shall determine whether there is any abandoned well located on the site, and if so, the construction permit shall be conditioned upon the proper closure of all abandoned wells located on the site in accordance with the requirements of this Article and rules adopted pursuant to this Article. If a private drinking water well is proposed to be located on a site on which a wastewater system subject to the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed to be located, the application for a construction permit shall be accompanied by a ~~plat,~~ plat or site plan, as defined in G.S. 130A-334."

SECTION 2. G.S. 87-98.7(b) reads as rewritten:

"(b) Renewal. – A certificate shall be renewed annually by payment of the annual fee and proof that the applicant has completed any professional development hours as may be required by the rules of the Commission. A person who fails to renew a certificate within 30 days of the expiration of the certificate must reapply for certification under this Article."

SECTION 3. G.S. 113-203 is amended by adding a new subsection to read:

"(a1) It is lawful to transplant seed clams less than 12 millimeters in their largest dimension and seed oysters less than 25 millimeters in their largest dimension and when the seed clams and seed oysters originate from an aquaculture operation permitted by the Secretary."

SECTION 4.(a) G.S. 143B-344.18 reads as rewritten:

"Part 29. Advisory Commission for North Carolina State Museum of Natural Sciences.

"§ **143B-344.18. Commission created; membership.**

There is created an Advisory Commission for the North Carolina State Museum of Natural Sciences which shall determine its own organization. It shall consist of at least nine members, which shall include the Director of the North Carolina State Museum of Natural Sciences, the Commissioner of Agriculture, the State Geologist and Secretary of Environment and Natural Resources, the Director of the Institute of Fisheries Research of the University of North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of Public Instruction, or qualified representative of any or all of the above-named members, and at least three persons representing the East, the Piedmont, and the Western areas of the State. Members appointed by the Governor shall serve for ~~terms of two years with the first appointments to be made effective September 1, 1961.~~four-year staggered terms. Terms shall begin on 1 September. Members appointed by the Governor shall not serve more than three consecutive four-year terms. Any member may be removed by the Governor for cause."

SECTION 4.(b) In order to provide four-year staggered terms for members of the Advisory Commission for the North Carolina State Museum of Natural Sciences, the Governor shall, at the Governor's discretion, extend the terms for those appointees whose terms shall expire on 31 August 2007 to 31 August 2009 and extend the terms for those appointees whose terms shall expire on 31 August 2008 to 31 August 2010. The three-term limitation provision set out in G.S. 143B-344.18, as amended by subsection (a) of this section, shall not apply to persons who are members of the Advisory Commission for the North Carolina State Museum of Natural Sciences at the time this act becomes law.

SECTION 5. Section 5 of S.L. 2001-440 reads as rewritten:

"**SECTION 5.** This act is effective when it becomes law. Section 1.3 of this act expires 1 September ~~2008~~2010."

PART II. AMEND NATURAL RESOURCES LAWS.

SECTION 6. G.S. 113-182.1(c1) reads as rewritten:

"(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. Before submission of a plan for review by the Joint Legislative Commission on Seafood and Aquaculture ~~or the Environmental Review Commission~~, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established in the Schedule for the development and adoption of Fishery Management

Plans established by G.S. 143B-289.52. The Commission shall consult with the regional advisory committees regarding the development of any temporary management measure that the Commission determines to be necessary to ensure the viability of the species or fishery while the plan is being developed and regarding the development of any management measure to implement the plan. Before the Commission adopts a temporary management measure or a management measure to implement a plan, the Commission shall review any comment or recommendation regarding the management measure that a regional advisory committee submits to the Commission."

SECTION 7. G.S. 113-182.1(e) reads as rewritten:

"(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Seafood and Aquaculture shall ~~concurrently~~ review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Seafood and Aquaculture may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

PART III. TECHNICAL CORRECTIONS.

SECTION 8. G.S. 58-37-1 reads as rewritten:

"§ **58-37-1. Definitions.**

As used in this Article:

…

(7) "Motor vehicle insurance" means direct insurance against liability arising out of the ownership, operation, maintenance or use of a motor vehicle for bodily injury including death and property damage and includes medical payments and uninsured and underinsured motorist coverages.

With respect to motor carriers who are subject to the financial responsibility requirements established under the Motor Carrier Act of 1980, the term, "motor vehicle insurance" includes coverage with respect to environmental restoration. As used in this subsection the term, "environmental restoration" means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, ~~water course~~ watercourse, or body of water of any commodity transported by a motor carrier. Environmental restoration includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

…."

SECTION 9. G.S. 104E-6.1 reads as rewritten:

"§ **104E-6.1. Conveyance of land used for low-level radioactive waste disposal facility to State.**

(a) No land may be used as a low-level radioactive waste disposal facility until fee simple title to the land has been conveyed to the State of North Carolina. In consideration for such conveyance, the State shall enter into a lease agreement with the grantor for a term equal to the estimated life of the facility in which the State will be the lessor and the grantor the lessee. Such lease agreement shall specify that for an annual rent of fifty dollars ($50.00), the lessee shall be allowed to use the land for the development and operation of a low-level radioactive waste disposal facility. Such lease agreement shall provide that the lessor or any person authorized by the lessor shall have at all times the right to enter without a search warrant or permission of the lessee upon any and all parts of the premises for monitoring, inspection and all other purposes necessary to carry out the provisions of Chapter 104E. The lessee shall remain fully liable for all damages, losses, personal injury or property damage which may result or arise out of the lessee's operation of the facility, and for compliance with regulatory requirements concerning insurance, bonding for closure and post-closure costs, monitoring and other financial or health and safety requirements as required by applicable law and regulations. The State, as lessor, shall be immune from liability except as otherwise provided by statute. The lease shall be transferrable with the written consent of the lessor, which consent will not be unreasonably withheld. In the case of such a transfer of the lease, the transferee shall be subject to all terms and conditions that the State deems necessary to ensure compliance with applicable laws and regulations. If the lessee or any successor in interest fails in any material respect to comply with any applicable law, regulation, or ~~permit~~ license condition, or with any term or condition of the lease, the State may terminate the lease after giving the lessee written notice specifically describing the failure to comply and upon providing the lessee a reasonable time to comply. If the lessee does not effect compliance within the reasonable time allowed, the State may reenter and take possession of the premises.

(b) Notwithstanding the termination of the lease by either the lessee or the lessor for any reason, the lessee shall remain liable for, and be obligated to perform all acts necessary or required by law, regulation, ~~permit~~ license conditions or the lease for the permanent closure of the site until the site has either been permanently closed or until a substitute operator has been secured and assumed the obligations of the lessee.

(c) In the event of changes in laws or regulations applicable to the facility which make continued operation by the lessee impossible or economically infeasible, the lessee shall have the right to terminate the lease upon giving the State reasonable notice of not less than six months, in which case the lessor shall have the right to secure a substitute lessee and operator.

(d) In the event of termination of the lease by the lessor as provided in subsection (a) of this section, or by the lessee as provided in subsection (c) of this section, the lessee shall be paid the fair market value of any improvements made to the leased premises less the costs to the lessor resulting from termination of the lease and securing a substituted lessee and operator; provided, that the lessor shall have no obligation to secure a substitute lessee or operator and may require the lessee to permanently close the facility."

SECTION 10. G.S. 104E-10.1 reads as rewritten:

"§ **104E-10.1. Additional requirements for low-level radioactive waste facilities.**

(a) An applicant for a ~~permit~~ license for a low-level radioactive facility shall satisfy the ~~department~~ Department that:

(1) Any low-level radioactive waste facility heretofore constructed or operated by the applicant (or any parent or subsidiary corporation if the applicant is a corporation) has been operated in accordance with sound waste management practices and in substantial compliance with federal and state laws and regulations; and

(2) The applicant (or any parent or subsidiary corporation if the applicant is a corporation) is financially qualified to operate the subject low-level radioactive waste facility.

(a1) The approval of a ~~permit~~ license shall be contingent upon the applicant first satisfying the ~~department~~ Department that ~~he~~ the applicant has met the above two requirements. In order to continue to hold a license under this Chapter, a licensee must remain financially qualified, and must provide any information requested by the Department to show that ~~he~~ the licensee continues to be financially qualified.

(b) Each ~~permit~~ license applicant or ~~permit~~ license holder ~~(or~~ or any parent or subsidiary corporation if the ~~permit~~ license applicant or ~~permit~~ license holder is a ~~corporation),~~corporation, as a condition of receiving or holding a ~~permit~~license, shall have an independent annual audit by a firm of duly licensed certified public accountants carrying a minimum of five million dollars ($5,000,000) professional liability insurance coverage, proof of which coverage shall be provided with the issuance of the audit report. Each ~~permit~~ license applicant or ~~permit~~ license holder referred to above shall also provide the Department ~~of Environment and Natural Resources~~ with a copy of the report and shall submit a copy of the report to the State Auditor for approval regarding its adequacy and completeness. As a minimum, the required report shall include the financial statements prepared in accordance with generally accepted accounting principles, all disclosures in the public interest required by law, and the auditor's opinion and comments relating to the financial statements. The audit shall be performed in conformity with generally accepted auditing standards.

(c) Within 10 days of receiving an application for a license or an amendment to a license to operate a low-level radioactive waste facility, the Department shall notify the clerk of the board of commissioners of the county or counties in which the facility is proposed to be located or is located, and, if the facility is to be located or is located within a city, the clerk of the governing board of the city, that the application has been filed, and shall file a copy of the application with the clerk. Prior to issuing a license or an amendment to an existing license the Secretary ~~of the Department~~ or ~~his~~ the Secretary's designee shall conduct a public hearing in the county, or in one of the counties, in which a person proposes to operate a low-level radioactive waste facility or to enlarge an existing facility. The Secretary shall give notice of the hearing at least 30 days prior to the date thereof by:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is to be located for three consecutive weeks beginning 30 days prior to the scheduled date of the hearing; and

(2) First class mail to persons who have requested such notice. The Department shall maintain a mailing list of persons who request notice pursuant to this subsection."

SECTION 11. G.S. 120-70.36 reads as rewritten:

"§ **120-70.36. Staffing.**

The Legislative Services Officer shall assign as staff to the Joint Select Committee professional employees of the General Assembly, as approved by the Legislative

Services Commission. Clerical staff shall be assigned to the Joint Select Committee through the offices of the ~~Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives~~ Directors of Legislative Assistants of the Senate and House of Representatives. The expenses of employment of clerical staff shall be borne by the Joint Select Committee."

SECTION 12. G.S. 120-70.46 reads as rewritten:

"§ **120-70.46. Staffing.**

The Legislative Services Officer shall assign as staff to the Environmental Review Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Environmental Review Commission through the offices of the ~~Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives~~ Directors of the Legislative Assistants of the Senate and House of Representatives. The expenses of employment of clerical staff shall be borne by the Environmental Review Commission."

SECTION 13. G.S. 120-70.65 reads as rewritten:

"§ **120-70.65. Staffing.**

The Legislative Services Officer shall assign as staff to the Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Commission through the ~~Offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives~~offices of the Directors of Legislative Assistants of the Senate and House of Representatives. The expenses of employment of clerical staff shall be borne by the Commission."

SECTION 14. G.S. 130A-294(f) reads as rewritten:

"(f) Within 10 days of receiving an application for a permit or for an amendment to an existing permit for a hazardous waste facility, the Department shall notify the clerk of the board of commissioners of the county or counties in which the facility is proposed to be located or is located and, if the facility is proposed to be located or is located within a city, the clerk of the governing board of the city, that the application has been filed, and shall file a copy of the application with the clerk. Prior to the issuance of a permit or an amendment of an existing permit the Secretary or ~~his~~ the Secretary's designee shall conduct a public hearing in the county, or in one of the counties in which the hazardous waste facility is proposed to be located or is located. The Secretary or ~~his~~ the Secretary's designee shall give notice of the hearing, and the public hearing shall be in accordance with applicable federal regulations adopted pursuant to RCRA and with Chapter 150B of the General Statutes. Where the provisions of the federal regulations and Chapter 150B of the General Statutes are inconsistent, the federal regulations shall apply."

SECTION 15.(a) G.S. 130A-295.01(g), as enacted by Section 1.7 of S.L. 2007-107, is recodified as G.S. 130A-295.01(c).

SECTION 15.(b) G.S. 130A-295.01(c), as enacted by Section 1.3 of S.L. 2007-107, is recodified as G.S. 130A-295.01(d).

SECTION 15.(c) Subsections (d), (e), (f), and (g) of G.S. 130A-295.01, as enacted by Section 1.4 of S.L. 2007-107, read as rewritten:

"~~(d)~~(e)

(1) Within 10 days of filing an application for a permit for a commercial hazardous waste facility, the applicant shall notify every person who resides or owns property located within one-fourth mile of any property boundary of the facility that the application has been filed.

The notice shall be by mail to residents and by certified mail to property owners, or by any other means approved by the Department, shall be in a form approved by the Department, and shall include all of the following:

~~(1)~~a. The location of the facility.

~~(2)~~b. A description of the facility.

~~(3)~~c. The hazardous and nonhazardous wastes that are to be received and processed at the facility.

~~(4)~~d. A description of the emergency response plan for the facility.

~~(e)~~(2) The permit holder for a commercial hazardous waste facility shall publish a notice that includes the information set out in ~~subsection (d)~~subdivision (1) of this ~~section~~ subsection annually beginning one year after the permit is issued. The notice shall be published in a form and manner approved by the Department in a newspaper of general circulation in the community where the facility is located.

~~(f)~~(3) The permit holder for a commercial hazardous waste facility shall provide the information set out in ~~subdivisions (1) through (4)~~ subdivision (1) of this subsection ~~(d) of this section~~ by mail to the persons described in subdivision (1) of this subsection ~~(d) of this section~~ at the midpoint of the period for which the permit is issued.

~~(g)~~(4) Each commercial hazardous waste facility applicant and permit holder shall provide documentation to demonstrate to the Department that the requirements set out in ~~subsections (d) through (f) of this section~~ subdivisions (1), (2), and (3) of this subsection have been met."

SECTION 15.(d) G.S. 130A-295.01(e), as enacted by Section 1.5 of S.L. 2007-107, is recodified as G.S. 130A-295.01(f).

SECTION 15.(e) G.S. 130A-295.01(f), as enacted by Section 1.6 of S.L. 2007-107, is recodified as G.S. 130A-295.01(g).

SECTION 15.(f) Subdivisions (6) and (7) of subsection (f) of Section 4.1 of S.L. 2007-107 read as rewritten:

"(6) Review the sprinkler requirements ~~for Hazardous Materials Facilities (Section 903.2.4)~~ under Section 903.2.4 of the State Building Code for facilities used to collect, store, process, treat, recycle, recover, or dispose of hazardous substance, as defined in 29 Code of Federal Regulations § 1910.120(a)(3) (1 July 2006 Edition), and determine whether sprinkler design criteria and coverage should be amended.

(7) Review the fire alarm requirements ~~for Hazardous Materials Facilities (Section 907.2.5)~~ under Section 903.2.4 of the State Building Code and determine whether the ~~relevant~~ facilities used to collect, store, process, treat, recycle, recover, or dispose of hazardous substance, as defined in 29 Code of Federal Regulations § 1910.120(a)(3) (1 July 2006 Edition), should have a full fire alarm system or, in the alternative, full staffing as recommended by the Department of Environment and Natural Resources. If the Task Force determines that relevant facilities should have full staffing, the Task Force shall recommend the level of knowledge and training that should be required of the staff."

SECTION 16. G.S. 139-41.2(b) reads as rewritten:

"(b) The Soil and Water Conservation Commission shall approve a watershed work plan if, in its judgment, it:

(1) Provides for proper and safe construction of proposed works of improvement;

(2) Shows that the construction and operation of the proposed works of improvement (in conjunction with other such works and related structures of the district and the watershed) will not appreciably diminish the flow of useful water that would otherwise be available to existing downstream water users during critical periods;

(3) Determines whether a program of ~~flood plain~~ floodplain management in connection with such proposed works is in the public interest, and the Soil and Water Conservation Commission may withhold approval until satisfactory ~~flood plain~~floodplain management measures are incorporated; and

(4) Is otherwise in compliance with law."

SECTION 17. G.S. 139-55 reads as rewritten:

"§ **139-55. Review of applications.**

(a) The State Soil and Water Conservation Commission shall receive and review applications for grants for small watershed projects authorized under Public Law 566 (83rd Congress, as amended) and approve, approve in part, or disapprove all such applications.

(b) In reviewing each application, the State Soil and Water Conservation Commission shall consider:

(1) The financial resources of the local sponsoring organization;

(2) Nonstructural measures such as sedimentation control ordinances and ~~flood plain~~floodplain zoning ordinances enacted and enforced by local governments to alleviate flooding;

(3) Regional benefits of projects to an area greater than the area under jurisdiction of the local sponsoring organization;

(4) Any direct benefit to State-owned lands and properties."

SECTION 18. G.S. 143-215.74 reads as rewritten:

"§ **143-215.74. Agriculture cost share program.**

(a) There is created the Agriculture Cost Share Program for Nonpoint Source Pollution Control. The program shall be created, implemented, and supervised by the Soil and Water Conservation Commission.

(b) The program shall be subject to the following requirements and limitations:

(1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the ~~water courses~~ watercourses of the State.

(2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.

…."

SECTION 19. G.S. 160A-479.7(a) reads as rewritten:

"(a) The charter may confer on the regional sports authority any or all of the following powers:

…

(16) To study and plan for new and improved major regional sports and recreational facilities including but not limited to arenas, stadia, gymnasia, natatoria, pitches, fields, ~~water courses~~watercourses, and

other areas for the conduct of sports and recreational activities. These facilities should be of such sizes and in such locations that they will be adequate to serve the population of the entire jurisdiction of the authority (and beyond) to the extent possible;

…."

SECTION 20. Section 12.7(d) of S.L. 2006-66 reads as rewritten:

"**DEPARTMENT OF COMMERCE/REPORT ON AGRIBUSINESS FUNDS**

SECTION 12.7.(d) The Department shall submit the report to the House Appropriations ~~Committee~~ Subcommittee on ~~Environment, Health, and~~ Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than May 1, 2007."

SECTION 21. Section 2 of S.L. 2006-139 reads as rewritten:

"**SECTION 2.** The Commissioner of Agriculture shall file a report no later than 31 March of each year with the Chairs of the House of Representatives Appropriations Subcommittee on Natural and Economic Resources and Senate Appropriations ~~Subcommittees~~ Committee on Natural and Economic Resources, the Chair of the House of Representatives Agriculture Committee, and the Chair of the Senate Committee on Agriculture, Environment, and Natural Resources which shall include the following:

(1) The short- and long-term problems associated with maintaining a viable dairy industry in the State.

(2) Ways to sustain the existing dairy industry in the State.

(3) Opportunities to expand the dairy industry, including attracting both new dairy producers and new processors to the State.

(4) The contribution of dairy farms to the maintenance of prime agricultural land and the quality of life in the State.

(5) An analysis of the effectiveness of the Dairy Stabilization and Growth Program in achieving the goals of maintaining a local supply of fresh milk for processing and consumption, facilitating the entry of young farmers into the dairy industry, and preserving green space along the urban fringe.

(6) Other factors that impact the dairy industry in the State."

PART IV. REPORTS CONSOLIDATION.

SECTION 22. G.S. 77-98 reads as rewritten:

"§ **77-98. Annual report.**

The Commission shall submit an annual report, including any recommendations, on or before 1 October of each year to the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of Virginia, and the General Assembly of Virginia."

SECTION 23. G.S. 106-744 reads as rewritten:

"§ **106-744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland ~~Preservaton~~ Preservation Trust Fund and Advisory Committee.**

…

(i) The Advisory Committee shall report no later than May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources regarding the activities of the

Advisory Committee, the agriculture easements purchased, and agricultural projects funded during the previous year.

…."

SECTION 24. G.S. 130A-294.1 reads as rewritten:

"§ **130A-294.1. Fees applicable to generators and transporters of hazardous waste, and to hazardous waste storage, treatment, and disposal facilities.**

(a) It is the intent of the General Assembly that the fee system established by this section is solely to provide funding in addition to federal and State appropriations to support the State's hazardous waste management program.

…

(p) The Department shall make an annual report on or before 1 October to the General Assembly and its Fiscal Research Division on the cost of the hazardous waste management program. The report shall include, but is not limited to, beginning fund balance, fees collected under this section, anticipated revenue from all sources, total expenditures ~~(by~~by activities and ~~categories)~~categories for the hazardous waste management program, ending fund balance, any recommended adjustments in the annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities which treat waste generated on-site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste."

SECTION 25. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:45 p.m. on the 30th day of August, 2007.

Session Law 2007-496 **House Bill 779**

AN ACT TO INCREASE THE CONTRIBUTORY DEATH BENEFIT PAYABLE ON BEHALF OF RETIRED MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(l) reads as rewritten:

"(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time

of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

(1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or

(2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;

(3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.

subject to a minimum of twenty-five thousand dollars ($25,000) and to a maximum of fifty thousand dollars ($50,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service.

The death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

(1) After December 31, 1968 and after he has attained age 70; or

(2) After December 31, 1969 and after he has attained age 69; or

(3) After December 31, 1970 and after he has attained age 68; or

(4) After December 31, 1971 and after he has attained age 67; or

(5) After December 31, 1972 and after he has attained age 66; or

(6) After December 31, 1973 and after he has attained age 65; or

(7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

(1) For the purpose of determining eligibility only, in this subsection "calendar year" shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.

(2) Last day of actual service shall be:

a. When employment has been terminated, the last day the member actually worked.

b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).

(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).

(4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to be less than twenty-five thousand dollars ($25,000) nor to exceed fifty thousand dollars ($50,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this Chapter shall be eligible for group life insurance benefits as provided in this subsection, notwithstanding that the member is no longer an employee or teacher or that the member's death occurs after the eligibility period after active service. The basis of the death benefit payable hereunder shall be the higher of the death benefit computed as above or a death benefit based on compensation used in computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability increases, all subject to the maximum dollar limitation as provided above. A member in receipt of benefits from the Disability Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued under the former Disability Salary Continuation Plan shall not be covered under the provisions of this paragraph.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of

five thousand dollars ($5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2004, but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars ($9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars

($10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 2. G.S. 128-27(l4) reads as rewritten:

"(l4) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2004, but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars ($9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars ($10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 3. G.S. 120-4.27 reads as rewritten:

"§ **120-4.27. Death benefit.**

The designated beneficiary of a member who dies while in service after completing one year of creditable service shall receive a lump-sum payment of an amount equal to the deceased member's highest annual salary, to a maximum of fifteen thousand dollars ($15,000). For purposes of this death benefit "in service" means currently serving as a member of the North Carolina General Assembly.

The death benefit provided by this section shall be designated a group life insurance benefit payable under an employee welfare benefit plan that is separate and apart from

the Retirement System but under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. The Board of Trustees is authorized to provide the death benefit in the form of group life insurance either by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in the State of North Carolina for the purpose of insuring the lives of qualified members in service, or by establishing or affiliating with a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after July 1, 2004, but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement

allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars ($9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after July 1, 2007, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars ($10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 4. G.S. 135-64(j) reads as rewritten:

"(i) Upon the death of a retired member on or after July 1, 2004, but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars ($9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon the death of a retired member on or after July 1, 2007, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by

the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars ($10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 5. This act becomes effective July 1, 2007, and applies to eligible retirees who die on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:47 p.m. on the 30th day of August, 2007.

Session Law 2007-497 **House Bill 1499**

AN ACT TO INCREASE THE BENEFIT OF THE PROPERTY TAX HOMESTEAD EXCLUSION BY RAISING BOTH THE INCOME ELIGIBILITY LIMIT AND THE AMOUNT EXCLUDED FROM TAXATION; TO AUTHORIZE THE REVENUE LAWS STUDY COMMITTEE TO STUDY WHETHER AND HOW TO INDEX THE MINIMUM AMOUNT THAT IS EXCLUDED FROM TAX; TO CREATE A SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT; TO MODIFY THE PRESENT-USE VALUE REQUIREMENTS FOR AGRICULTURAL LAND USED AS AN AQUATIC SPECIES FARM; AND TO AUTHORIZE THE REVENUE LAWS STUDY COMMITTEE TO STUDY VARIOUS MODIFICATIONS AND EXPANSIONS TO THE PRESENT-USE VALUE SYSTEM.

The General Assembly of North Carolina enacts:

PART I. PROPERTY TAX HOMESTEAD EXCLUSION MODIFICATION

SECTION 1.1. G.S. 105-277.1 reads as rewritten:

"§ **105-277.1. Property tax homestead exclusion.**

(a) Exclusion. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of ~~twenty thousand dollars ($20,000)~~twenty-five thousand dollars ($25,000) or fifty percent (50%) of the appraised value of the residence. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is at least 65 years of age or totally and permanently disabled.

(2) Has an income for the preceding calendar year of not more than the income eligibility limit.

(3) Is a North Carolina resident.

(a1) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a

rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(a2) Income Eligibility Limit. – Until July 1, ~~2003,~~2008, the income eligibility limit is ~~eighteen thousand dollars ($18,000).~~twenty-five thousand dollars ($25,000). For taxable years beginning on or after July 1, ~~2003,~~2008, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars ($100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year.

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

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.

(1a) Income. – ~~Adjusted gross income, as defined in section 62 of the Code, plus all other~~All moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.

(1b) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. A manufactured home jointly owned by husband and wife is considered property held by the entirety.

(2) Repealed by Session Laws 1993, c. 360, s. 1.

(2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

(3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home.

(4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

(c) Application. – An application for the exclusion provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each owner must apply separately for his or her proportionate share of the exclusion.

(1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.

(2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability.

The proof must be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, the applicant is not required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation.

(d) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may the total exclusion allowed for a permanent residence exceed the exclusion amount provided in this section."

SECTION 1.2. The Revenue Laws Study Committee may study the issue of whether to index the minimum excluded appraised value limit in the property tax homestead exclusion in G.S. 105-277.1 and, if so, which index to use.

SECTION 1.3. Section 1.1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The remainder of this section is effective when it becomes law.

PART II. SENIOR CIRCUIT BREAKER PROPERTY TAX BENEFIT

SECTION 2.1. G.S. 105-277.1(b) is amended by adding a new subdivision to read:

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

…

(3a) Property tax relief. – The property tax homestead exclusion provided in this section or the property tax homestead circuit breaker provided in G.S. 105-277.1B.

…."

SECTION 2.2. G.S. 105-277.1 is amended by adding a new subsection to read:

"§ **105-277.1. Property tax homestead exclusion.**

…

(e) Election. – An owner who qualifies for both kinds of property tax relief may elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the property tax homestead circuit breaker in order for the property tax homestead circuit breaker to be allowed instead of the property tax homestead exclusion."

SECTION 2.3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

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

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

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

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

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

(1) The owner has an income for the preceding calendar year of not more than one hundred fifty percent (150%) of the income eligibility limit specified in subsection (c) of this section.

(2) The owner has occupied the property as a permanent residence for at least five years.

(3) The owner is at least 65 years of age or totally and permanently disabled.

(4) The owner is a North Carolina resident.

(e) Multiple Owners. – When a permanent residence is owned and occupied by two or more persons other than husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners qualify and elect to defer taxes under this section.

(f) Tax Limitation. – A qualifying owner may defer the portion of tax imposed on his or her permanent residence if it exceeds a percentage of the qualifying owner's income as provided in this section.

Income	**Percentage**
Less than the income eligibility limit	4.0%
100% to 150% of the income eligibility limit	5.0%

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

(h) Deferred Taxes. – The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes for the three fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. On or before September 1 of each year, the assessor shall notify each residence owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

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

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

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

(3) The owner ceases to use the property as a permanent residence.

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

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

(l) Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

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

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

SECTION 2.4. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible ~~to be exempted or excluded from taxation~~for a property tax benefit must file an application for ~~exemption or exclusion~~the benefit to receive it. Once the application has been approved, the owner does not need to file an application in

subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the ~~exemption or exclusion:~~benefit.

a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.

d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

e. Special classes of property eligible for tax relief under G.S. 105-277.1B."

SECTION 2.5. G.S. 105-309(f) reads as rewritten:

"(f) The ~~notice set out below must appear~~assessor must print a homestead tax relief notice on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice:~~notice required by this section. The notice must be in the form required by the Department of Revenue designed to notify the taxpayer of his or her rights and responsibilities under the homestead property tax exclusion provided in G.S. 105-277.1 and the property tax homestead circuit breaker provided in G.S. 105-277.1B.

~~"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS.~~

~~North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars ($20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.~~

~~If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.~~

~~If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1."~~"

SECTION 2.6. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2009.

PART III. AQUATIC SPECIES FARM MODIFICATIONS TO PUV

SECTION 3.1. G.S. 105-277.3(a)(1) reads as rewritten:

"(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which ~~consists~~ satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual ~~production and that,~~production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars ($1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004. ~~Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.~~"

SECTION 3.2. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

PART IV. TAX RELIEF STUDY FOR NONDEVELOPMENTAL PROPERTY

SECTION 4.1. The General Assembly finds that increases to property tax values in this State resulting from real estate development often make it difficult for owners who do not want to develop their property to continue to use their property for farming or other nondevelopmental purposes. The Revenue Laws Study Committee may study ways to address the inability of landowners to pay escalating property taxes while maintaining nondevelopmental uses. The study may include a review of the following:

(1) Implementing tax benefits for donating perpetual easements on property to ensure continuation of nondevelopmental uses.

(2) Extending present-use value benefits to property that is used for wildlife conservation.

(3) Other ways to reduce property taxes to preserve property used for farmland and other nondevelopmental uses.

SECTION 4.2. The Revenue Laws Study Committee may report its findings on the issues in this act, including any recommendations or legislative proposals, to the 2008 Regular Session of the General Assembly.

SECTION 4.3. This section is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:48 p.m. on the 30th day of August, 2007.

Session Law 2007-498 **House Bill 349**

AN ACT TO REPEAL THE LAW ALLOWING THE STATE BOARD OF EDUCATION TO REMOVE LOCAL SCHOOL BOARD MEMBERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-39 reads as rewritten:

"§ **115C-39. ~~Removal of board members; suspension~~ Suspension of duties by State Board.**

~~(a) In case the State Board of Education has sufficient evidence that any member of a local board of education is not capable of discharging, or is not discharging, the duties of his office as required by law, or is guilty of immoral or disreputable conduct, the State Board of Education shall notify the chairman of such board of education, unless such chairman is the offending member, in which case all other members of such board shall be notified. Upon receipt of such notice there shall be a meeting of said board of education for the purpose of investigating the charges, and if the charges are found to be true, such board shall declare the office vacant: Provided, that the offending member shall be given proper notice of the hearing and that record of the findings of the other members shall be recorded in the minutes of such board of education.~~

(b) In the event the State Board of Education has appointed an interim superintendent under G.S. 115C-105.39 and the State Board determines that the local board of education has failed to cooperate with the interim superintendent, the State Board shall have the authority to suspend any of the powers and duties of the local board and to act on its behalf under G.S. 115C-105.39."

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

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Became law upon approval of the Governor at 12:49 p.m. on the 30th day of August, 2007.

Session Law 2007-499 **House Bill 514**

AN ACT TO ALLOW PASSENGER BUSES THAT HAVE AN OVERALL LENGTH OF FORTY-FIVE FEET TO OPERATE ON PUBLIC STREETS AND HIGHWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-116 is amended by adding a new subsection to read:

"§ **20-116. Size of vehicles and loads.**

…

(l) Nothing in this section shall be construed to prevent the operation of passenger buses that are owned and operated by units of local government, operated as a single vehicle only and having an overall length of 45 feet or less, on public streets or

highways. The Department of Transportation may prevent the operation of buses that are authorized under this subsection if the operation of such buses on a street or highway presents a hazard to passengers of the buses or to the motoring public.

…."

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

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Became law upon approval of the Governor at 12:49 p.m. on the 30th day of August, 2007.

Session Law 2007-500 **House Bill 487**

AN ACT TO EXEMPT BALER TWINE FROM THE SALES AND USE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(1) reads as rewritten:

"(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.

b. Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.

c. A horse or mule.

d. Fuel other than electricity."

SECTION 2. This act becomes effective October 1, 2007, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 12:50 p.m. on the 30th day of August, 2007.

Session Law 2007-501 **House Bill 488**

AN ACT TO PERMIT LOCAL BOARDS OF EDUCATION TO PROVIDE FOR AN ADMINISTRATIVE INITIAL SCREENING OF REASSIGNMENT APPEALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-369 reads as rewritten:

"§ **115C-369. Application for reassignment; notice of disapproval; hearing before board.**

(a) The parent or guardian of any child, or the person standing in loco parentis to any child, who is dissatisfied with the assignment made by a local board of education may, within 10 days after notification of the assignment, or the last publication thereof, apply in writing to the local board of education for the reassignment of the child to a different public school. Application for reassignment shall be made on forms prescribed by the local board of education pursuant to rules and regulations adopted by the board of education. If the application for reassignment is disapproved, the local board of education shall give notice to the applicant by registered or certified mail, and the applicant may within five days after receipt of such notice apply to the local board for a ~~hearing, and shall~~hearing. The applicant shall be entitled to a prompt and fair hearing on the question of reassignment of such child to a different school.

(b) The local board of education shall make a final determination on the question of reassignment. The board of education may establish initial hearings prior to the final determination. If the board of education establishes initial hearings, the ~~The local~~ board of education ~~may~~ shall designate hearing panels composed of not less than two members of the board to hear such appeals in the name of the board of ~~education.~~education, and may designate a hearing officer to hear such appeals for fact-finding and a recommended decision, or may designate both. If both are designated, an applicant must select the entity to hold the hearing. The hearing panel's recommendations or the hearing officer's recommended findings of fact and recommended decision shall be submitted to the board of education for final determination.

(c) At the hearing the local board of education shall consider the best interest of the child, the orderly and efficient administration of the public schools, the proper administration of the school to which reassignment is requested and the instruction, health, and safety of the pupils there enrolled, and shall assign said child in accordance with such factors. The local board shall render prompt decision upon the hearing, and notice of the decision shall be given to the applicant by ~~registered or certified mail.~~ mail, telephone, telefax, e-mail, or any other method reasonably designed to achieve notice."

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

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 12:50 p.m. on the 30th day of August, 2007.

Session Law 2007-502 **House Bill 634**

AN ACT TO CLARIFY THE RIGHT TO MAKE ADVANCE DIRECTIVES AND TO DESIGNATE HEALTH CARE AGENTS; AND TO IMPROVE AND SIMPLIFY THE MEANS OF MAKING THESE DIRECTIVES AND DESIGNATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 32A-15(c) reads as rewritten:

"(c) This Article is intended and shall be construed to be consistent with the provisions of Article 23 of Chapter 90 of the General Statutes provided that in the event of a conflict between the provisions of this Article and Article 23 of Chapter 90, the provisions of Article 23 of Chapter 90 control. No conflict between these Chapters exists when either a health care power of attorney or a declaration provides that the

declaration is subject to decisions of a health care agent. If no declaration has been executed by the principal as provided in G.S. 90-321 that expressly covers the principal's present condition and if the health care agent has been given the specific authority in a health care power of attorney to authorize the withholding or discontinuing of ~~life-sustaining procedures when the principal is in the present condition, these procedures~~ life-prolonging measures when the principal is in such condition, the measures may be withheld or discontinued as provided in the health care power of attorney upon the direction and under the supervision of the attending ~~physician. In this case, G.S. 90-322 does not apply.~~physician, as G.S. 90-322 shall not apply in such case. Nothing in this Article shall be construed to authorize any affirmative or deliberate act or omission to end life other than to permit the natural process of dying."

SECTION 2. G.S. 32A-16 reads as rewritten:

"§ **32A-16. Definitions.**

~~As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:~~The following definitions apply in this Article:

(1) ~~"Disposition of remains" means the~~ Disposition of remains. – The decision to bury or cremate human ~~remains as~~ remains, as human remains are defined in G.S. ~~90-210.121(17).~~90-210.121, and, subject to G.S. 32A-19(b), arrangements relating to burial or cremation.

(1a) ~~"Health care" means any~~ Health care. – Any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for the principal's physical or mental health or personal care and comfort ~~including, life-sustaining procedures.~~including life-prolonging measures. "Health care" includes mental health treatment as defined in subdivision (8) of this section.

(2) ~~"Health care agent" means the~~ Health care agent. – The person appointed as a health care attorney-in-fact.

(3) ~~"Health care power of attorney" means a~~ Health care power of attorney. – A written ~~instrument,~~instrument that substantially meets the requirements of this Article, that is signed in the presence of two qualified witnesses, and acknowledged before a notary public, pursuant to which an attorney-in-fact or agent is appointed to act for the principal in matters relating to the health care of the ~~principal, and which substantially meets the requirements of this Article.~~principal. The notary who takes the acknowledgement may but is not required to be a paid employee of the attending physician or mental health treatment provider, a paid employee of a health facility in which the principal is a patient, or a paid employee of a nursing home or any adult care home in which the principal resides.

(4) ~~"Life-sustaining procedures" are those forms of care or treatment which only serve to artificially prolong the dying process and may include mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, and other forms of treatment which sustain, restore or supplant vital bodily functions, but do not include care necessary to provide comfort or to alleviate pain.~~Life-prolonging measures. – Medical procedures or interventions which in the judgment of the attending physician would serve only to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital

function, including mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, and similar forms of treatment. Life-prolonging measures do not include care necessary to provide comfort or to alleviate pain.

(5) ~~"Principal" means the~~ Principal. – The person making the health care power of attorney.

(6) ~~"Qualified witness" means a~~ Qualified witness. – A witness in whose presence the principal has executed the health care power of attorney, who believes the principal to be of sound mind, and who states that he or she (i) is not related within the third degree to the principal nor to the principal's spouse, (ii) does not know nor have a reasonable expectation that he or she would be entitled to any portion of the estate of the principal upon the principal's death under any existing will or codicil of the principal or under the Intestate Succession Act as it then provides, (iii) is not the attending physician or mental health treatment provider of the principal, nor ~~an~~ a licensed health care provider who is a paid employee of the attending physician or mental health treatment provider, nor ~~an~~ a paid employee of a health facility in which the principal is a patient, nor ~~an~~ a paid employee of a nursing home or any ~~group care~~ adult care home in which the principal resides, and (iv) does not have a claim against any portion of the estate of the principal at the time of the principal's execution of the health care power of attorney.

(7) ~~"Advance instruction for mental health treatment" or "advance instruction" means a written instrument as defined in G.S. 122C-72(1) pursuant to which the principal makes a declaration of instructions, information, and preferences regarding mental health treatment.~~Advance instruction for mental health treatment or advance instruction. – As defined in G.S. 122C-72(1).

(8) ~~"Mental health treatment" means the~~ Mental health treatment. – The process of providing for the physical, emotional, psychological, and social needs of the principal for the principal's mental illness. "Mental health treatment" ~~includes, but is not limited to,~~ includes electroconvulsive treatment, treatment of mental illness with psychotropic medication, and admission to and retention in a facility for care or treatment of mental illness."

SECTION 3. G.S. 32A-19(a), (a1), and (b) read as rewritten:

"§ **32A-19. Extent of authority; limitations of authority.**

(a) A principal, pursuant to a health care power of attorney, may grant to the health care agent full power and authority to make health care decisions to the same extent that the principal could make those decisions for himself or herself if he or she had ~~understanding and~~ capacity to make and communicate health care decisions, including without limitation, the power to authorize withholding or discontinuing ~~life-sustaining procedures~~ life-prolonging measures and the power to authorize the giving or withholding of mental health treatment. A health care power of attorney may also contain or incorporate by reference any lawful guidelines or directions relating to the health care of the principal as the principal deems appropriate.

(a1) A health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment prepared pursuant to Part 2 of Article 3

of Chapter 122C of the General Statutes. A health care agent's decisions about mental health treatment shall be consistent with any statements the principal has expressed in an advance instruction for mental health treatment if one so exists, and if none exists, shall be consistent with what the agent believes in good faith to be the manner in which the principal would act if the principal did not lack ~~sufficient understanding or~~ capacity to make or communicate health care decisions. A health care agent is not subject to criminal prosecution, civil liability, or professional disciplinary action for any action taken in good faith pursuant to an advance instruction for mental health treatment.

(b) A health care power of attorney may authorize the health care agent to exercise any and all rights the principal may have with respect to anatomical gifts, the authorization of any autopsy, and the disposition of ~~remains.~~remains; provided this authority is limited to incurring reasonable costs related to exercising these powers, and a health care power of attorney does not give the health care agent general authority over a principal's property or financial affairs."

SECTION 4. G.S. 32A-22(a) reads as rewritten:

"(a) If, following the execution of a health care power of attorney, a court of competent jurisdiction appoints a guardian of the person of the principal, or a general guardian with powers over the person of the principal, the guardian may petition the court, after giving notice to the health care agent, to suspend the authority of the health care agent during the guardianship. The court may suspend the authority of the health care agent for good cause shown, provided that the court's order must direct whether the guardian shall act consistently with the health care power of attorney or whether and in what respect the guardian may deviate from it. Any order suspending the authority of the health care agent must set forth the court's findings of fact and conclusions of law.~~the health care power of attorney shall cease to be effective upon the appointment and qualification of the guardian.~~ The guardian shall act consistently with G.S. 35A-1201(a)(5). A health care provider shall be fully protected from liability in relying on a health care power of attorney until given actual notice of the court's order suspending the authority of the health care agent."

SECTION 5.(a) G.S. 32A-24(c) reads as rewritten:

"§ **32A-24. Reliance on health care power of attorney; defense.**

"(c) The withholding or withdrawal of ~~life-sustaining procedures~~ life-prolonging measures by or under the orders of a physician pursuant to the authorization of a health care agent shall not be considered suicide or the cause of death for any civil or criminal purpose nor shall it be considered unprofessional conduct or a lack of professional competence. Any person, institution or facility, including without limitation the health care agent and the attending physician, against whom criminal or civil liability is asserted because of conduct described in this section, may interpose this section as a defense."

SECTION 5.(b) G.S. 32A-24 is amended by adding the following new subsection to read:

"(d) The protections of this section extend to any valid health care power of attorney, including a document valid under G.S. 32A-27; these protections are not limited to health care powers of attorney prepared in accordance with the statutory form provided in G.S. 32A-25.1, or to health care powers of attorney filed with the Advance Health Care Directive Registry maintained by the Secretary of State. A health care provider may rely in good faith on an oral or written statement by legal counsel that a document appears to meet applicable statutory requirements for a health care power of attorney. These protections also extend to a document executed in another jurisdiction

that is valid as a health care power of attorney under G.S. 32A-27. A health care provider shall have no liability for acting in accordance with a revoked health care power of attorney unless that provider has actual notice of the revocation."

SECTION 6.(a) G.S. 32A-25 is repealed.

SECTION 6.(b) Article 3 of Chapter 32A of the General Statutes is amended by adding the following new section to read:

"**§ 32A-25.1. Statutory form health care power of attorney.**

(a) The use of the following form in the creation of a health care power of attorney is lawful and, when used, it shall meet the requirements of and be construed in accordance with the provisions of this Article:

HEALTH CARE POWER OF ATTORNEY

NOTE: YOU SHOULD USE THIS DOCUMENT TO NAME A PERSON AS YOUR HEALTH CARE AGENT IF YOU ARE COMFORTABLE GIVING THAT PERSON BROAD AND SWEEPING POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A HEALTH CARE POWER OF ATTORNEY.

EXPLANATION: *You have the right to name someone to make health care decisions for you when you cannot make or communicate those decisions. This form may be used to create a health care power of attorney, and meets the requirements of North Carolina law. However, you are not required to use this form, and North Carolina law allows the use of other forms that meet certain requirements. If you prepare your own health care power of attorney, you should be very careful to make sure it is consistent with North Carolina law.*

This document gives the person you designate as your health care agent ***broad powers*** *to make health care decisions for you when you cannot make the decision yourself or cannot communicate your decision to other people. You should discuss your wishes concerning life-prolonging measures, mental health treatment, and other health care decisions with your health care agent. Except to the extent that you express specific limitations or restrictions in this form, your health care agent may make any health care decision you could make yourself.*

This form does not impose a duty on your health care agent to exercise granted powers, but when a power is exercised, your health care agent will be obligated to use due care to act in your best interests and in accordance with this document.

This Health Care Power of Attorney form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. ***Do not sign this form until*** *two witnesses and a notary public are present to watch you sign it. You then should give a copy to your health care agent and to any alternates you name. You*

should consider filing it with the Advance Health Care Directive Registry maintained by the North Carolina Secretary of State: http://www.nclifelinks.org/ahcdr/

1. Designation of Health Care Agent.

I, _____, being of sound mind, hereby appoint the following person(s) to serve as my health care agent(s) to act for me and in my name (in any way I could act in person) to make health care decisions for me as authorized in this document. My designated health care agent(s) shall serve alone, in the order named.

A. Name: _____ Home Telephone: _____
Home Address: _____ Work Telephone: _____
_____ Cellular Telephone: _____

B. Name: _____ Home Telephone: _____
Home Address: _____ Work Telephone: _____
_____ Cellular Telephone: _____

C. Name: _____ Home Telephone: _____
Home Address: _____ Work Telephone: _____
_____ Cellular Telephone: _____

Any successor health care agent designated shall be vested with the same power and duties as if originally named as my health care agent, and shall serve any time his or her predecessor is not reasonably available or is unwilling or unable to serve in that capacity.

2. Effectiveness of Appointment.

My designation of a health care agent expires only when I revoke it. Absent revocation, the authority granted in this document shall become effective when and if one of the physician(s) listed below determines that I lack capacity to make or communicate decisions relating to my health care, and will continue in effect during that incapacity, or until my death, except if I authorize my health care agent to exercise my rights with respect to anatomical gifts, autopsy, or disposition of my remains, this authority will continue after my death to the extent necessary to exercise that authority.

1. _____ *(Physician)*

2. _____ *(Physician)*

If I have not designated a physician, or no physician(s) named above is reasonably available, the determination that I lack capacity to make or communicate decisions relating to my health care shall be made by my attending physician.

3. Revocation.

Any time while I am competent, I may revoke this power of attorney in a writing I sign or by communicating my intent to revoke, in any clear and consistent manner, to my health care agent or my health care provider.

4. General Statement of Authority Granted.

Subject to any restrictions set forth in Section 6 below, I grant to my health care agent full power and authority to make and carry out all health care decisions for me. These decisions include, but are not limited to:

A. Requesting, reviewing, and receiving any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.

B. Employing or discharging my health care providers.

C. Consenting to and authorizing my admission to and discharge from a hospital, nursing or convalescent home, hospice, long-term care facility, or other health care facility.

D. Consenting to and authorizing my admission to and retention in a facility for the care or treatment of mental illness.

E. Consenting to and authorizing the administration of medications for mental health treatment and electroconvulsive treatment (ECT) commonly referred to as "shock treatment."

F. Giving consent for, withdrawing consent for, or withholding consent for, X-ray, anesthesia, medication, surgery, and all other diagnostic and treatment procedures ordered by or under the authorization of a licensed physician, dentist, podiatrist, or other health care provider. This authorization specifically includes the power to consent to measures for relief of pain.

G. Authorizing the withholding or withdrawal of life-prolonging measures.

H. Providing my medical information at the request of any individual acting as my attorney-in-fact under a durable power of attorney or as a Trustee or successor Trustee under any Trust Agreement of which I am a Grantor or Trustee, or at the request of any other individual whom my health care agent believes should have such information. I desire that such information be provided whenever it would expedite the prompt and proper handling of my affairs or the affairs of any person or entity for which I have some responsibility. In addition, I authorize my health care agent to take any and all legal steps necessary to ensure compliance with my instructions providing access to my protected health information. Such steps shall include resorting to any and all

legal procedures in and out of courts as may be necessary to enforce my rights under the law and shall include attempting to recover attorneys' fees against anyone who does not comply with this health care power of attorney.

I. To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, exercising any right I may have to authorize an autopsy or direct the disposition of my remains.

J. Taking any lawful actions that may be necessary to carry out these decisions, including, but not limited to: (i) signing, executing, delivering, and acknowledging any agreement, release, authorization, or other document that may be necessary, desirable, convenient, or proper in order to exercise and carry out any of these powers; (ii) granting releases of liability to medical providers or others; and (iii) incurring reasonable costs on my behalf related to exercising these powers, provided that this health care power of attorney shall not give my health care agent general authority over my property or financial affairs.

5. Special Provisions and Limitations.

(Notice: The authority granted in this document is intended to be as broad as possible so that your health care agent will have authority to make any decisions you could make to obtain or terminate any type of health care treatment or service. If you wish to limit the scope of your health care agent's powers, you may do so in this section. If none of the following are initialed, there will be no special limitations on your agent's authority.)

A. Limitations about Artificial Nutrition or Hydration: In exercising the authority to make health care decisions on my behalf, my health care agent:

_____ *(Initial)* shall NOT have the authority to withhold artificial nutrition (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

_____

_____

_____ *(Initial)* shall NOT have the authority to withhold artificial hydration (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

_____

_____

NOTE: If you initial either block but do not insert any special provisions, your health care agent shall have NO AUTHORITY to withhold artificial nutrition or hydration.

_____ *(Initial)*

B. Limitations Concerning Health Care Decisions. In exercising the authority to make health care decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: your own definition of when life-prolonging measures should be withheld or discontinued, or instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs, or are unacceptable to you for any other reason.)

_____

_____

NOTE: DO NOT initial unless you insert a limitation.

_____ *(Initial)*

C. Limitations Concerning Mental Health Decisions. In exercising the authority to make mental health decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: limiting the grant of authority to make only mental health treatment decisions, your own instructions regarding the administration or withholding of psychotropic medications and electroconvulsive treatment (ECT), instructions regarding your admission to and retention in a health care facility for mental health treatment, or instructions to refuse any specific types of treatment that are unacceptable to you.)

_____

_____

NOTE: DO NOT initial unless you insert a limitation.

_____ *(Initial)*

D. Advance Instruction for Mental Health Treatment. (Notice: This health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment, executed in accordance with Part 2 of Article 3 of Chapter 122C of the General Statutes, which you may use to state your instructions regarding mental health treatment in the event you lack capacity to make or communicate mental health treatment decisions. Because your health care agent's decisions must be consistent with any statements you have expressed in an advance instruction, you should indicate here whether you have executed an advance instruction for mental health treatment):

_____

_____

NOTE: DO NOT initial unless you insert a limitation.

_____ *(Initial)*

E. Autopsy and Disposition of Remains. In exercising the authority to make decisions regarding autopsy and disposition of remains on my behalf, the authority of my health care agent is subject to the following special provisions and limitations.

(Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding burial or cremation):

_____

_____

NOTE: DO NOT initial unless you insert a limitation.___

6. Organ Donation.

To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, my health care agent may exercise any right I may have to:

_____ *(Initial)* donate any needed organs or parts; or

_____ *(Initial)* donate only the following organs or parts:

_____

NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.

_____ *(Initial)* donate my body for anatomical study if needed.

_____ *(Initial)* In exercising the authority to make donations, my health care agent is subject to the following special provisions and limitations: (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding gifts of the body or body parts.)

_____

_____

_____

NOTE: DO NOT initial unless you insert a limitation.

NOTE: NO AUTHORITY FOR ORGAN DONATION IS GRANTED IN THIS INSTRUMENT WITHOUT YOUR INITIALS.

7. Guardianship Provision.

If it becomes necessary for a court to appoint a guardian of my person, I nominate the persons designated in Section 1, in the order named, to be the guardian of my person, to serve without bond or security. The guardian shall act consistently with G.S. 35A-1201(a)(5).

8. Reliance of Third Parties on Health Care Agent.

A. No person who relies in good faith upon the authority of or any representations by my health care agent shall be liable to me, my

estate, my heirs, successors, assigns, or personal representatives, for actions or omissions in reliance on that authority or those representations.

B. The powers conferred on my health care agent by this document may be exercised by my health care agent alone, and my health care agent's signature or action taken under the authority granted in this document may be accepted by persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. All acts performed in good faith by my health care agent pursuant to this power of attorney are done with my consent and shall have the same validity and effect as if I were present and exercised the powers myself, and shall inure to the benefit of and bind me, my estate, my heirs, successors, assigns, and personal representatives. The authority of my health care agent pursuant to this power of attorney shall be superior to and binding upon my family, relatives, friends, and others.

9. Miscellaneous Provisions.

A. Revocation of Prior Powers of Attorney. I revoke any prior health care power of attorney. The preceding sentence is not intended to revoke any general powers of attorney, some of the provisions of which may relate to health care; however, this power of attorney shall take precedence over any health care provisions in any valid general power of attorney I have not revoked.

B. Jurisdiction, Severability, and Durability. This Health Care Power of Attorney is intended to be valid in any jurisdiction in which it is presented. The powers delegated under this power of attorney are severable, so that the invalidity of one or more powers shall not affect any others. This power of attorney shall not be affected or revoked by my incapacity or mental incompetence.

C. Health Care Agent Not Liable. My health care agent and my health care agent's estate, heirs, successors, and assigns are hereby released and forever discharged by me, my estate, my heirs, successors, assigns, and personal representatives from all liability and from all claims or demands of all kinds arising out of my health care agent's acts or omissions, except for my health care agent's willful misconduct or gross negligence.

D. No Civil or Criminal Liability. No act or omission of my health care agent, or of any other person, entity, institution, or facility acting in good faith in reliance on the authority of my health care agent pursuant to this Health Care Power of Attorney shall be considered suicide, nor the cause of my death for any civil or criminal purposes, nor shall it be considered unprofessional conduct or as lack of professional competence. Any person, entity, institution, or facility against whom criminal or civil liability is asserted because of conduct authorized by

this Health Care Power of Attorney may interpose this document as a defense.

E. Reimbursement. My health care agent shall be entitled to reimbursement for all reasonable expenses incurred as a result of carrying out any provision of this directive.

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my health care agent.

This the _____ day of _____, 20____.

_____(SEAL)

I hereby state that the principal, _____, being of sound mind, signed (or directed another to sign on the principal's behalf) the foregoing health care power of attorney in my presence, and that I am not related to the principal by blood or marriage, and I would not be entitled to any portion of the estate of the principal under any existing will or codicil of the principal or as an heir under the Intestate Succession Act, if the principal died on this date without a will. I also state that I am not the principal's attending physician, nor a licensed health care provider or mental health treatment provider who is (1) an employee of the principal's attending physician or mental health treatment provider, (2) an employee of the health facility in which the principal is a patient, or (3) an employee of a nursing home or any adult care home where the principal resides. I further state that I do not have any claim against the principal or the estate of the principal.

Date: _____ Witness: _____

Date: _____ Witness: _____

_____ COUNTY, _____ STATE

Sworn to (or affirmed) and subscribed before me this day by _____
(type/print name of signer)

_____
(type/print name of witness)

_____
(type/print name of witness)

Date: _____ _____
(Official Seal) *Signature of Notary Public*

_____, Notary Public
Printed or typed name

My commission expires: _____

(b) Use of the statutory form prescribed in this section is an optional and nonexclusive method for creating a health care power of attorney and does not affect the use of other forms of health care powers of attorney, including previous statutory forms."

SECTION 7. Article 3 of Chapter 32A of the General Statutes is amended by adding the following new section to read:

"**§ 32A-27. Health care powers of attorney executed in other jurisdictions.**

Notwithstanding G.S. 32A-16(3), a health care power of attorney or similar document executed in a jurisdiction other than North Carolina shall be valid as a health care power of attorney in this State if it appears to have been executed in accordance with the applicable requirements of that jurisdiction or of this State."

SECTION 8. Article 4 of Chapter 35A of the General Statutes is amended by adding the following new section to read:

"**§ 35A-1208. Authority for health care decisions.**

(a) A guardian of the person or general guardian of an incompetent adult may petition the Clerk, in accordance with G.S. 32A-22(a), for an order suspending the authority of a health care agent, as that term is defined in G.S. 32A-16(2).

(b) A guardian of the person or general guardian of an incompetent adult may not revoke a Declaration, as that term is defined in G.S. 90-321."

SECTION 9. G.S. 35A-1241(a)(3) reads as rewritten:

"(3) The guardian of the person may give any consent or approval that may be necessary to enable the ward to receive medical, legal, psychological, or other professional care, counsel, treatment, or ~~service.~~service; provided that, if the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority granted in the health care power of attorney unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208. The guardian shall not, however, consent to the sterilization of a mentally ill or mentally retarded ward unless the guardian obtains an order from the clerk in accordance with G.S. 35A-1245. The guardian of the person may give any other consent or approval on the ward's behalf that may be required or in the ward's best interest. The guardian may petition the clerk for the clerk's concurrence in the consent or approval."

SECTION 10. G.S. 90-320 reads as rewritten:

"§ **90-320. General purpose of Article.**

(a) The General Assembly recognizes as a matter of public policy that an individual's rights include the right to a peaceful and natural death and that a patient or ~~his~~ the patient's representative has the fundamental right to control the decisions relating to the rendering of ~~his~~ the patient's own medical care, including the decision to have ~~extraordinary means~~ life-prolonging measures withheld or withdrawn in instances of a terminal condition. This Article is to establish an optional and nonexclusive procedure by which a patient or ~~his~~ the patient's representative may exercise these rights. A military advanced medical directive executed in accordance with 10 U.S.C. § 1044 or other applicable law is valid in this State."

(b) Nothing in this Article shall be construed to authorize any affirmative or deliberate act or omission to end life other than to permit the natural process of dying. Nothing in this Article shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of ~~life-sustaining procedures~~ life-prolonging measures in any lawful manner. In such respect the provisions of this Article are cumulative."

SECTION 11.(a) G.S. 90-321(a), (b), and (c) read as rewritten:

"(a) ~~As used in this Article the term:~~The following definitions apply in this Article:

(1) ~~"Declarant" means a~~ Declarant. – A person who has signed a declaration in accordance with subsection ~~(c);~~ (c) of this section.

(1a) Declaration. – Any signed, witnessed, dated, and proved document meeting the requirements of subsection (c) of this section.

~~(2) "Extraordinary means" is defined as any medical procedure or intervention which in the judgment of the attending physician would serve only to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital function;~~

(2a) Life-prolonging measures. – As defined in G.S. 32A-16(4).

(3) ~~"Physician" means any~~ Physician. – Any person licensed to practice medicine under Article 1 of Chapter 90 of the laws of the State of North ~~Carolina;~~Carolina.

~~(4) "Persistent vegetative state" is a medical condition whereby in the judgment of the attending physician the patient suffers from a sustained complete loss of self-aware cognition and, without the use of extraordinary means or artificial nutrition or hydration, will succumb to death within a short period of time.~~

(b) If a person has ~~declared, in accordance with subsection (c) below, a desire that his life not be prolonged by extraordinary means or by artificial nutrition or hydration,~~ expressed through a declaration, in accordance with subsection (c) of this section, a desire that the person's life not be prolonged by life-prolonging measures, and the declaration has not been revoked in accordance with subsection ~~(e);~~(e) of this section; and

(1) It is determined by the attending physician that the declarant's present condition is a condition described in subsection (c) of this section and specified in the declaration for applying the declarant's directives, and

~~a. Terminal and incurable; or~~

~~b. Repealed by Session Laws 1993, c. 553, s. 28;~~

~~c. Diagnosed as a persistent vegetative state; and~~

(2) There is confirmation of the declarant's present condition as set out ~~above~~ in subdivision (b)(1) of this section by a physician other than the attending physician;

then ~~extraordinary means or artificial nutrition or hydration, as specified by the declarant,~~ the life-prolonging measures identified by the declarant shall or may, as specified by the declarant, ~~may~~ be withheld or discontinued upon the direction and under the supervision of the attending physician.

(c) The attending physician ~~may rely upon a signed, witnessed, dated and proved declaration, or a copy of that declaration obtained from the Advance Health Care Directive Registry maintained by the Secretary of State pursuant to Article 21 of~~

~~Chapter 130A of the General Statutes;~~ shall follow, subject to subsections (b), (e), and (k) of this section, a declaration:

(1) ~~Which expresses a desire of the declarant that extraordinary means or artificial nutrition or hydration not be used to prolong his life if his condition is determined to be terminal and incurable, or if the declarant is diagnosed as being in a persistent vegetative state; and~~That expresses a desire of the declarant that life-prolonging measures not be used to prolong the declarant's life if, as specified in the declaration as to any or all of the following:

a. The declarant has an incurable or irreversible condition that will result in the declarant's death within a relatively short period of time; or

b. The declarant becomes unconscious and, to a high degree of medical certainty, will never regain consciousness; or

c. The declarant suffers from advanced dementia or any other condition resulting in the substantial loss of cognitive ability and that loss, to a high degree of medical certainty, is not reversible.

(2) ~~Which~~ That states that the declarant is aware that the declaration authorizes a physician to withhold or discontinue the ~~extraordinary means or artificial nutrition or hydration;~~ life-prolonging measures; and

(3) ~~Which~~ That has been signed by the declarant in the presence of two witnesses who believe the declarant to be of sound mind and who state that they (i) are not related within the third degree to the declarant or to the declarant's spouse, (ii) do not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon ~~his~~ the declarant's death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it then provides, (iii) ~~are not the attending physician, or an employee of the attending physician, or an employee of a health facility in which the declarant is a patient, or an employee of a nursing home or any group care home in which the declarant resides,~~are not the attending physician, licensed health care providers who are paid employees of the attending physician, paid employees of a health facility in which the declarant is a patient, or paid employees of a nursing home or any adult care home in which the declarant resides, and (iv) do not have a claim against any portion of the estate of the declarant at the time of the declaration; and

(4) ~~Which~~ That has been proved before a clerk or assistant clerk of superior court, or a notary public who certifies substantially as set out in subsection ~~(d) below.~~(d1) of this section. A notary who takes the acknowledgement may but is not required to be a paid employee of the attending physician, a paid employee of a health facility in which the declarant is a patient, or a paid employee of a nursing home or any adult care home in which the declarant resides."

SECTION 11.(b) G.S. 90-321(d) is repealed.

SECTION 11.(c) G.S. 90-321 is amended by adding the following new subsection to read:

"(d1) The following form is specifically determined to meet the requirements of subsection (c) of this section:

ADVANCE DIRECTIVE FOR A NATURAL DEATH ("LIVING WILL")

NOTE: YOU SHOULD USE THIS DOCUMENT TO GIVE YOUR HEALTH CARE PROVIDERS INSTRUCTIONS TO WITHHOLD OR WITHDRAW LIFE-PROLONGING MEASURES IN CERTAIN SITUATIONS. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A LIVING WILL.

GENERAL INSTRUCTIONS: *You can use this Advance Directive ("Living Will") form to give instructions for the future if you want your health care providers to withhold or withdraw life-prolonging measures in certain situations. You should talk to your doctor about what these terms mean. The Living Will states what choices you would have made for yourself if you were able to communicate. Talk to your family members, friends, and others you trust about your choices. Also, it is a good idea to talk with professionals such as your doctors, clergypersons, and lawyers before you complete and sign this Living Will.*

You do not have to use this form to give those instructions, but if you create your own Advance Directive you need to be very careful to ensure that it is consistent with North Carolina law.

This Living Will form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. ***Do not sign this form until*** *two witnesses and a notary public are present to watch you sign it. You then should consider giving a copy to your primary physician and/or a trusted relative, and should consider filing it with the Advanced Health Care Directive Registry maintained by the North Carolina Secretary of State:* http://www.nclifelinks.org/ahcdr/

My Desire for a Natural Death

I, _____, being of sound mind, desire that, as specified below, my life not be prolonged by life-prolonging measures:

1. When My Directives Apply

My directions about prolonging my life shall apply ***IF*** my attending physician determines that I lack capacity to make or communicate health care decisions and:

NOTE: YOU MAY INITIAL ANY AND ALL OF THESE CHOICES.

_____ *(Initial)* I have an incurable or irreversible condition that will result in my death within a relatively short period of time.

_____ *(Initial)* I become unconscious and my health care providers determine that, to a high degree of medical certainty, I will never regain my consciousness.

_____ *(Initial)* I suffer from advanced dementia or any other condition which results in the substantial loss of my cognitive ability and my health care providers determine that, to a high degree of medical certainty, this loss is not reversible.

2. These are My Directives about Prolonging My Life:

In those situations I have initialed in Section 1, I direct that my health care providers:

NOTE: INITIAL ONLY IN ONE PLACE.

_____ *(Initial)* may withhold or withdraw life-prolonging measures.

_____ *(Initial)* shall withhold or withdraw life-prolonging measures.

3. Exceptions – "Artificial Nutrition or Hydration"

NOTE: INITIAL ONLY IF YOU WANT TO MAKE EXCEPTIONS TO YOUR INSTRUCTIONS IN PARAGRAPH 2.

EVEN THOUGH I do not want my life prolonged in those situations I have initialed in Section 1:

_____ *(Initial)* I *DO* want to receive BOTH artificial hydration AND artificial nutrition (for example, through tubes) in those situations.

NOTE: DO NOT INITIAL THIS BLOCK IF ONE OF THE BLOCKS BELOW IS INITIALED.

_____ *(Initial)* I *DO* want to receive ONLY artificial hydration (for example, through tubes) in those situations.

NOTE: DO NOT INITIAL THE BLOCK ABOVE OR BELOW IF THIS BLOCK IS INITIALED.

_____ *(Initial)* I *DO* want to receive ONLY artificial nutrition (for example, through tubes) in those situations.

NOTE: DO NOT INITIAL EITHER OF THE TWO BLOCKS ABOVE IF THIS BLOCK IS INITIALED.

4. I Wish to be Made as Comfortable as Possible

I direct that my health care providers take reasonable steps to keep me as clean, comfortable, and free of pain as possible so that my dignity is maintained, even though this care may hasten my death.

5. I Understand my Advance Directive

I am aware and understand that this document directs certain life-prolonging measures to be withheld or discontinued in accordance with my advance instructions.

6. If I have an Available Health Care Agent

If I have appointed a health care agent by executing a health care power of attorney or similar instrument, and that health care agent is acting and available and gives instructions that differ from this Advance Directive, then I direct that:

_____ *(Initial)* Follow Advance Directive: This Advance Directive will **override** instructions my health care agent gives about prolonging my life.

_____ *(Initial)* Follow Health Care Agent: My health care agent has authority to **override** this Advance Directive.

NOTE: **DO NOT INITIAL BOTH BLOCKS.** ***IF YOU DO NOT INITIAL EITHER BOX, THEN YOUR HEALTH CARE PROVIDERS WILL FOLLOW THIS ADVANCE DIRECTIVE AND IGNORE THE INSTRUCTIONS OF YOUR HEALTH CARE AGENT ABOUT PROLONGING YOUR LIFE.***

7. My Health Care Providers May Rely on this Directive

My health care providers shall not be liable to me or to my family, my estate, my heirs, or my personal representative for following the instructions I give in this instrument. Following my directions shall not be considered suicide, or the cause of my death, or malpractice or unprofessional conduct. If I have revoked this instrument but my health care providers do not know that I have done so, and they follow the instructions in this instrument in good faith, they shall be entitled to the same protections to which they would have been entitled if the instrument had not been revoked.

8. I Want this Directive to be Effective Anywhere

I intend that this Advance Directive be followed by any health care provider in any place.

9. I have the Right to Revoke this Advance Directive

I understand that at any time I may revoke this Advance Directive in a writing I sign or by communicating in any clear and consistent manner my intent to revoke it to my attending physician. I understand that if I revoke this instrument I should try to destroy all copies of it.

This the _____ day of _____, _____.

_____

Print Name _____

I hereby state that the declarant, _____, being of sound mind, signed (or directed another to sign on declarant's behalf) the foregoing Advance Directive for a Natural Death in my presence, and that I am not related to the declarant by blood or marriage, and I would not be entitled to any portion of the estate of the declarant under any existing will or codicil of the declarant or as an heir under the Intestate Succession Act, if the declarant died on this date without a will. I also state that I am not the declarant's attending physician, nor a licensed health care provider who is (1) an employee of the declarant's attending physician, (2) nor an employee of the health facility in which the declarant is a patient, or (3) an employee of a nursing home or any adult care home where the declarant resides. I further state that I do not have any claim against the declarant or the estate of the declarant.

Date: _____ Witness: _____

Date: _____ Witness: _____

_____COUNTY, _____STATE

Sworn to (or affirmed) and subscribed before me this day by _____
(type/print name of declarant)

_____
(type/print name of witness)

_____
(type/print name of witness)

Date _____ _____
(Official Seal) *Signature of Notary Public*

_____, Notary Public
Printed or typed name

My commission expires: _____"

SECTION 11.(d) G.S. 90-321(e), (h), and (i) read as rewritten:

"(e) ~~The above declaration may be revoked by the declarant, in any manner by which he is able to communicate his intent to revoke, without regard to his mental or~~

~~physical condition. Such revocation shall become effective only upon communication to the attending physician by the declarant or by an individual acting on behalf of the declarant.~~A declaration may be revoked by the declarant, in writing or in any manner by which the declarant is able to communicate the declarant's intent to revoke in a clear and consistent manner, without regard to the declarant's mental or physical condition. A health care provider shall have no liability for acting in accordance with a revoked declaration unless the provider has actual notice of the revocation. A health care agent may not revoke a declaration unless the health care power of attorney explicitly authorizes that revocation; however, a health care agent may exercise any authority explicitly given to the health care agent in a declaration. A guardian of the person of the declarant or general guardian may not revoke a declaration.

(h) The withholding or discontinuance of ~~extraordinary means and/or the withholding or discontinuance of either artificial nutrition or hydration, or both~~ life-prolonging measures in accordance with this section shall not be considered the cause of death for any civil or criminal purposes nor shall it be considered unprofessional ~~conduct.~~conduct or a lack of professional competence. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this section may interpose this section as a defense. The protections of this section extend to any valid declaration, including a document valid under subsection (l) of this section; these protections are not limited to declarations prepared in accordance with the statutory form provided in subsection (d1) of this section, or to declarations filed with the Advance Health Care Directive Registry maintained by the Secretary of State. A health care provider may rely in good faith on an oral or written statement by legal counsel that a document appears to meet the statutory requirements for a declaration.

(i) ~~Any certificate in the form provided by this section prior to July 1, 1979, shall continue to be valid.~~ Use of the statutory form prescribed in subsection (d1) of this section is an optional and nonexclusive method for creating a declaration and does not affect the use of other forms of a declaration, including previous statutory forms."

SECTION 11.(e) G.S. 90-321 is amended by adding the following new subsections to read:

"(k) Notwithstanding subsection (c) of this section:

(1) An attending physician may decline to honor a declaration that expresses a desire of the declarant that life-prolonging measures not be used if doing so would violate that physician's conscience or the conscience-based policy of the facility at which the declarant is being treated; provided, an attending physician who declines to honor a declaration on these grounds must not interfere, and must cooperate reasonably, with efforts to substitute an attending physician whose conscience would not be violated by honoring the declaration, or transfer the declarant to a facility that does not have policies in force that prohibit honoring the declaration.

(2) An attending physician may decline to honor a declaration if after reasonable inquiry there are reasonable grounds to question the genuineness or validity of a declaration. The subsection imposes no duty on the attending physician to verify a declaration's genuineness or validity.

(l) Notwithstanding subsection (c) of this section, a declaration or similar document executed in a jurisdiction other than North Carolina shall be valid in this State

if it appears to have been executed in accordance with the applicable requirements of that jurisdiction or this State."

SECTION 12. G.S. 90-322 reads as rewritten:

"§ **90-322. Procedures for natural death in the absence of a declaration.**

(a) ~~If a person is comatose and there is no reasonable possibility that he will return to a cognitive sapient state or is mentally incapacitated, and:~~ If the attending physician determines, to a high degree of medical certainty, that a person lacks capacity to make or communicate health care decisions and the person will never regain that capacity, and:

~~(1) It is determined by the attending physician that the person's present condition is:~~

~~a. Terminal and incurable; or~~

~~b. Repealed by Session Laws 1993, c. 553, s. 29.~~

~~c. Diagnosed as a persistent vegetative state; and~~

(1a) That the person:

a. Has an incurable or irreversible condition that will result in the person's death within a relatively short period of time; or

b. Is unconscious and, to a high degree of medical certainty, will never regain consciousness; and

(2) There is confirmation of the person's present condition as set out above in this subsection, in writing by a physician other than the attending physician; and

(3) A vital bodily function of the person could be restored ~~by extraordinary means or a vital function of the person is being sustained by extraordinary means; or~~ or is being sustained by life-prolonging measures;

~~(4) The life of the person could be or is being sustained by artificial nutrition or hydration;~~

then, ~~extraordinary means or artificial nutrition or hydration~~ life-prolonging measures may be withheld or discontinued in accordance with subsection ~~(b).~~(b) of this section.

(b) If a person's condition has been determined to meet the conditions set forth in subsection (a) of this section and no instrument has been executed as provided in G.S. ~~90-321~~90-321, ~~the extraordinary means or artificial nutrition or hydration~~ then life-prolonging measures may be withheld or discontinued upon the direction and under the supervision of the attending physician with the concurrence ~~(i) of a health care agent appointed pursuant to a health care power of attorney meeting the requirements of Article 3 of Chapter 32A of the General Statutes, or (ii) of a guardian of the person, or (iii) of the person's spouse, or (iv) of a majority of the relatives of the first degree, in that order.~~of the following persons, in the order indicated:

(1) A guardian of the patient's person, or a general guardian with powers over the patient's person, appointed by a court of competent jurisdiction pursuant to Article 5 of Chapter 35A of the General Statutes; provided that, if the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority to the extent granted in the health care power of attorney and to the extent provided in G.S. 32A-19(b) unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208(a);

(2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority granted;

(3) An attorney-in-fact, with powers to make health care decisions for the patient, appointed by the patient pursuant to Article 1 or Article 2 of Chapter 32A of the General Statutes, to the extent of the authority granted;

(4) The patient's spouse;

(5) A majority of the patient's reasonably available parents and children who are at least 18 years of age;

(6) A majority of the patient's reasonably available siblings who are at least 18 years of age; or

(7) An individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes.

If none of the above is reasonably available then at the discretion of the attending physician the ~~extraordinary means or artificial nutrition or hydration~~ life-prolonging measures may be withheld or discontinued upon the direction and under the supervision of the attending physician.

(c) Repealed by Session Laws 1979, c. 715, s. 2.

(d) The withholding or discontinuance of such ~~extraordinary means or artificial nutrition or hydration~~ life-prolonging measures shall not be considered the cause of death for any civil or criminal purpose nor shall it be considered unprofessional conduct. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this section may interpose this section as a defense."

SECTION 13. G.S. 90-21.13 reads as rewritten:

"§ **90-21.13. Informed consent to health care treatment or procedure.**

(a) No recovery shall be allowed against any health care provider upon the grounds that the health care treatment was rendered without the informed consent of the patient or ~~the patient's spouse, parent, guardian, nearest relative or~~ other person authorized to give consent for the patient where:

(1) The action of the health care provider in obtaining the consent of the patient or other person authorized to give consent for the patient was in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities; and

(2) A reasonable person, from the information provided by the health care provider under the circumstances, would have a general understanding of the procedures or treatments and of the usual and most frequent risks and hazards inherent in the proposed procedures or treatments which are recognized and followed by other health care providers engaged in the same field of practice in the same or similar communities; or

(3) A reasonable person, under all the surrounding circumstances, would have undergone such treatment or procedure had he been advised by the health care provider in accordance with the provisions of subdivisions (1) and (2) of this subsection.

(b) A consent which is evidenced in writing and which meets the foregoing standards, and which is signed by the patient or other authorized person, shall be

presumed to be a valid consent. This presumption, however, may be subject to rebuttal only upon proof that such consent was obtained by fraud, deception or misrepresentation of a material fact. A consent that meets the foregoing standards, that is given by a patient, or other authorized person, who under all the surrounding circumstances has capacity to make and communicate health care decisions, is a valid consent.

(c) ~~A valid consent is one which is given by a person who under all the surrounding circumstances is mentally and physically competent to give consent.~~ The following persons, in the order indicated, are authorized to consent to medical treatment on behalf of a patient who is comatose or otherwise lacks capacity to make or communicate health care decisions:

(1) A guardian of the patient's person, or a general guardian with powers over the patient's person, appointed by a court of competent jurisdiction pursuant to Article 5 of Chapter 35A of the General Statutes; provided that, if the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority to the extent granted in the health care power of attorney and to the extent provided in G.S. 32A-19(b) unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208(a);

(2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority granted;

(3) An attorney-in-fact, with powers to make health care decisions for the patient, appointed by the patient pursuant to Article 1 or Article 2 of Chapter 32A of the General Statutes, to the extent of the authority granted;

(4) The patient's spouse;

(5) A majority of the patient's reasonably available parents and children who are at least 18 years of age;

(6) A majority of the patient's reasonably available siblings who are at least 18 years of age; or

(7) An individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes.

(c1) If none of the persons listed under subsection (c) of this section is reasonably available, then the patient's attending physician, in the attending physician's discretion, may provide health care treatment without the consent of the patient or other person authorized to consent for the patient if there is confirmation by a physician other than the patient's attending physician of the patient's condition and the necessity for treatment; provided, however, that confirmation of the patient's condition and the necessity for treatment are not required if the delay in obtaining the confirmation would endanger the life or seriously worsen the condition of the patient.

(d) No action may be maintained against any health care provider upon any guarantee, warranty or assurance as to the result of any medical, surgical or diagnostic procedure or treatment unless the guarantee, warranty or assurance, or some note or memorandum thereof, shall be in writing and signed by the provider or by some other person authorized to act for or on behalf of such provider.

(e) In the event of any conflict between the provisions of this section and those of ~~G.S. 35A-1245~~G.S. 35A-1245, 90-21.17, and 90-322, ~~and~~ Articles 1A and 19 of

Chapter 90, and Article 3 of Chapter 122C of the General Statutes, the provisions of those sections and Articles shall control and continue in full force and effect."

SECTION 14. G.S. 90-21.17 reads as rewritten:

"§ **90-21.17. Portable do not resuscitate ~~order.~~order and Medical Order for Scope of Treatment.**

(a) It is the intent of this section to recognize a patient's desire and right to withhold cardiopulmonary resuscitation and other life-prolonging measures to avoid loss of dignity and unnecessary pain and suffering through the use of a portable do not resuscitate ("DNR") ~~order.~~order or a Medical Order for Scope of Treatment (MOST).

This section establishes an optional and nonexclusive procedure by which a patient or the patient's representative may exercise this right.

(b) A physician may issue a portable DNR order or MOST for a patient:

(1) With the consent of the patient;

(2) If the patient is a minor, with the consent of the patient's parent or guardian; or

(3) If the patient is not a minor but is incapable of making an informed decision regarding consent for the order, with the consent of the patient's representative.

The physician shall document the basis for the DNR order or MOST in the patient's medical record. When the order is a MOST, the patient or the patient's representative must sign the form, provided, however, that if it is not practicable for the patient's representative to sign the original MOST form, the patient's representative shall sign a copy of the completed form and return it to the health care professional completing the form. The copy of the form with the signature of the patient's representative, whether in paper or electronic form, shall be placed in the patient's medical record. When the signature of the patient's representative is on a separate copy of the MOST form, the original MOST form must indicate in the appropriate signature field that the signature is "on file".

(c) The Department of Health and Human Services shall develop a portable DNR order ~~form.~~form and a MOST form. The official DNR form shall include fields for the name of the patient; the name, address, and telephone number of the physician; the signature of the physician; and other relevant information. At a minimum, the official MOST form shall include fields for: the name of the patient; an advisory that a patient is not required to have a MOST; the name, telephone number, and signature of the physician, physician assistant, or nurse practitioner authorizing the order; the name and contact information of the health care professional who prepared the form with the patient or the patient's representative; information on who agreed (i.e., the patient or the patient's representative) to the options selected on the MOST form; a range of options for cardiopulmonary resuscitation, medical interventions, antibiotics, medically administered fluids and nutrition; patient or patient representative's name, contact information, and signature; effective date of the form and review dates; a prominent advisory that directions in a MOST form may suspend, while those MOST directions are in effect, any conflicting directions in a patient's previously executed declaration of an advance directive for a natural death ("living will"), health care power of attorney, or other legally authorized instrument; and an advisory that the MOST may be revoked by the patient or the patient's representative. The official MOST form shall also include the following statement written in boldface type directly above the signature line: **'You are not required to sign this form to receive treatment.'** The form may be approved by reference to a standard form that meets the requirements of this subsection. For

purposes of this section, the "patient's representative" means an individual from the list of persons authorized to consent to the withholding of ~~extraordinary care~~ life-prolonging measures pursuant to ~~G.S. 90-322 or an individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes.~~G.S. 90-322.

(d) No physician, emergency medical professional, hospice provider, or other health care provider shall be subject to criminal prosecution, civil liability, or disciplinary action by any professional licensing or certification agency for withholding cardiopulmonary resuscitation or other life-prolonging measures from a patient in good faith reliance on an original DNR order or MOST form adopted pursuant to subsection (c) of this section, provided that (i) there are no reasonable grounds for doubting the validity of the order or the identity of the patient, and (ii) the provider does not have actual knowledge of the revocation of the portable DNR ~~order.~~order or MOST. No physician, emergency medical professional, hospice provider, or other health care provider shall be subject to criminal prosecution, civil liability, or disciplinary action by any professional licensing or certification agency for failure to follow a DNR order or MOST form adopted pursuant to subsection (c) of this section if the provider had no actual knowledge of the existence of the DNR ~~order.~~order or MOST.

(e) A health care facility may develop policies and procedures that authorize the facility's provider to accept a portable DNR order or MOST as if it were an order of the medical staff of that facility. This section does not prohibit a physician in a health care facility from issuing a written order, other than a portable DNR ~~order,~~order or MOST not to resuscitate a patient in the event of cardiac or respiratory arrest, or to use, withhold, or withdraw additional medical interventions as provided in the MOST, in accordance with acceptable medical practice and the facility's policies.

(f) Nothing in this section shall affect the validity of portable DNR order or MOST forms in existence prior to the effective date of this section."

SECTION 15.(a) G.S. 122C-3(20) reads as rewritten:

"(20) "Legally responsible person" means: (i) when applied to an adult, who has been adjudicated incompetent, a guardian; (ii) when applied to a minor, a parent, guardian, a person standing in loco parentis, or a legal custodian other than a parent who has been granted specific authority by law or in a custody order to consent for medical care, including psychiatric treatment; or (iii) when applied to an adult who is incapable as defined in G.S. 122C-72(c) and who has not been adjudicated incompetent, a health care agent named pursuant to a valid health care power of ~~attorney as prescribed in Article 3 of Chapter 32 of the General Statutes.~~attorney."

SECTION 15.(b) G.S. 122C-57(d) reads as rewritten:

"(d) Each voluntarily admitted ~~client, the client's legally responsible person, or a health care agent named pursuant to a valid health care power of attorney~~ client or the client's legally responsible person (including a health care agent named pursuant to a valid health care power of attorney) has the right to consent to or refuse any treatment offered by the facility. Consent may be withdrawn at any time by the person who gave the consent. If treatment is refused, the qualified professional shall determine whether treatment in some other modality is possible. If all appropriate treatment modalities are refused, the voluntarily admitted client may be discharged. In an emergency, a voluntarily admitted client may be administered treatment or medication, other than those specified in subsection (f) of this section, despite the refusal of the ~~client, the~~

~~client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or~~ client or the client's legally responsible person, even if the client's refusal is expressed in a valid advance instruction for mental health treatment. The Commission may adopt rules to provide a procedure to be followed when a voluntarily admitted client refuses treatment."

SECTION 16. G.S. 130A-468(c) and (d) read as rewritten:

"(c) When the Secretary of State receives a revocation of a document that is filed with the registry and that document's file number and password, or a request to remove that document from the registry without its revocation, the Secretary shall delete that document from the registry database.

(d) The Secretary of State's entry of a document ~~into~~ into, or removal of a document from, the registry database does not do any of the following:

(1) Affect the validity of the document in whole or in part.

(2) Relate to the accuracy of information contained in the document.

(3) Create a presumption regarding the validity of the document, regarding the accuracy of information contained in the document, or that the statutory requirements for the document have been met."

SECTION 17. G.S. 28A-13-1 reads as rewritten:

"§ **28A-13-1. Time of accrual of duties and powers.**

The duties and powers of a personal representative commence upon his or her appointment. The powers of a personal representative relate back to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. ~~Prior to appointment,~~ However, a person named executor in a will ~~may~~ may, prior to appointment, carry out written instructions of the decedent relating to ~~his~~ the decedent's body, funeral and burial ~~arrangements.~~arrangements; provided that a health care agent authorized in a valid health care power of attorney to make body, funeral, and burial arrangements shall have precedence in making these arrangements, both before and after qualification of the decedent's personal representative, to the extent provided in G.S. 32A-19(b). A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative."

SECTION 18. The Legislative Research Commission shall study the issue of whether North Carolina law should be amended to allow a person to require life-prolonging measures. The LRC shall involve all stakeholders in the study. The LRC shall report its recommendations to the 2008 Session of the 2007 General Assembly.

SECTION 19. The North Carolina Institute of Medicine (Institute) shall study issues related to the provision of end-of-life medical care in North Carolina. As part of the study, the Division of Health Service Regulation, Department of Health and Human Services, and the North Carolina Board of Medicine shall provide to the Institute nonidentifying information regarding claims and complaints related to end-of-life medical treatment by health care providers that was contrary to the express wishes of either the patient or a person authorized by law to make treatment decisions on behalf of the patient. The Institute may review any other data related to end-of-life medical care and treatment the Institute determines is relevant.

The purpose of this study is to determine whether statutory changes related to advance directives and health care powers of attorney impact the type and quantity of end-of-life medical care provided to patients, whether the patient's or patient representative's express wishes regarding the provision of treatment at the end of life are

being honored, and whether there is any change in the number of persons who request continued treatment at the end of their lives, but do not receive that treatment.

The Institute shall report its findings to the following entities no later than January 30, 2013:

(1) The 2013 General Assembly.

(2) The North Carolina Bar Association.

(3) The North Carolina Medical Society.

SECTION 20. This act is effective October 1, 2007.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 12:56 p.m. on the 30th day of August, 2007.

Session Law 2007-503 **House Bill 679**

AN ACT TO CHANGE ARTICLE 3A OF CHAPTER 20, SAFETY AND EMISSIONS INSPECTION PROGRAMS, TO ALLOW FOR ELECTRONIC INSPECTION PROCESSES AND AUTHORIZATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-66 reads as rewritten:

"§ **20-66. Renewal of vehicle registration.**

(a) Annual Renewal. – The registration of a vehicle must be renewed annually. To renew the registration of a vehicle, the owner of the vehicle must file an application with the Division and pay the required registration fee. The Division may receive and grant an application for renewal of registration at any time before the registration expires.

(b) Method of Renewal. – When the Division renews the registration of a vehicle, it must issue a new registration card for the vehicle and either a new registration plate or a registration renewal sticker. The Division may renew a registration plate for any type of vehicle by means of a renewal sticker.

(b1) Repealed by Session Laws 1993, c. 467, s. 2.

(c) Renewal Stickers. – A registration renewal sticker issued by the Division must be displayed on the registration plate that it renews in the place prescribed by the Commissioner and must indicate the period for which it and the registration plate on which it is displayed are valid. Except where physical differences between a registration renewal sticker and a registration plate render a provision of this Chapter inapplicable, the provisions of this Chapter relating to registration plates apply to registration renewal stickers.

(d), (e) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, § 5.

(f) Repealed by Session Laws 1993, c. 467, s. 2.

(g) When Renewal Sticker Expires. – The registration of a vehicle that is renewed by means of a registration renewal sticker expires at midnight on the last day of the month designated on the sticker. It is lawful, however, to operate the vehicle on a highway until midnight on the fifteenth day of the month following the month in which the sticker expired.

The Division may vary the expiration dates of registration renewal stickers issued for a type of vehicle so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division

implements registration renewal for a type of vehicle by means of a renewal sticker, it may issue a registration renewal sticker that expires at the end of any monthly interval.

(h) Repealed by Session Laws 2004-167, s. 3, as amended by Session Laws 2004-199, s. 59, effective January 1, 2006.

(i) Property Tax Consolidation. – When the Division receives an application under subsection (a) for the renewal of registration before the current registration expires, the Division shall grant the application if it is made for the purpose of consolidating the property taxes payable by the applicant on classified motor vehicles, as defined in G.S. 105-330. The registration fee for a motor vehicle whose registration cycle is changed under this subsection shall be reduced by a prorated amount. The prorated amount is one-twelfth of the registration fee in effect when the motor vehicle's registration was last renewed multiplied by the number of full months remaining in the motor vehicle's current registration cycle, rounded to the nearest multiple of twenty-five cents (25¢).

(j) Inspection Prior to Renewal of Registration. – The Division shall not renew the registration of a vehicle unless it has a current safety or emissions inspection.

(k) Return of Registration Plates Upon Expiration. – Registration plates that are not renewed shall be surrendered to the Division within 120 days of expiration."

SECTION 2. G.S. 20-183.2(c) reads as rewritten:

"(c) Definitions. – The following definitions apply in this Part:

(1) Electronic inspection authorization. – An inspection authorization that is generated electronically through the electronic accounting system that creates a unique nonduplicating authorization number assigned to the vehicle's inspection receipt upon successful passage of an inspection. The term 'electronic inspection authorization' shall include the term 'inspection sticker' during the transition period to use of electronic inspection authorizations.

~~(1)~~(2) Emissions county. – A county listed in G.S. 143-215.107A(c) or designated by the Environmental Management Commission pursuant to G.S. 143-215.107A(d) and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.

~~(2)~~(3) Federal installation. – An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

SECTION 3. G.S. 20-183.4 reads as rewritten:

"§ **20-183.4. License required to perform safety inspection; qualifications for license.**

(a) License Required. – A safety inspection must be performed by one of the following methods:

(1) At a station that has a safety inspection station license issued by the Division and by a mechanic who is employed by the station and has a safety inspection mechanic license issued by the Division.

(2) At a place of business of a person who has a safety self-inspector license issued by the Division and by an individual who has a safety inspection mechanic license issued by the Division.

(b) Station Qualifications. – An applicant for a license as a safety inspection station must meet all of the following requirements:

(1) Have a place of business that has adequate facilities, space, and equipment to conduct a safety inspection. A place of business

designated in a station license that has been suspended or revoked cannot be the designated place for any other license applicant during the period of the suspension or revocation, unless the Division finds that operation of the place of business as an inspection station during this period by the license applicant would not defeat the purpose of the suspension or revocation because the license applicant has no connection with the person whose license was suspended or revoked or because of another reason. A finding made by the Division under this subdivision must be set out in a written statement that includes the finding and the reason for the finding.

(2) Regularly employ at least one mechanic who has a safety inspection mechanic license.

(3) Designate the individual who will be responsible for the day-to-day operation of the station. The individual designated must be of good character and have a reputation for honesty.

(4) Have equipment and software to transfer information on safety inspections to the Division by electronic means. During the initial implementation of the electronic inspection process, the vendor selected by the Division shall provide the equipment and software at no cost to a station that holds a license on October 1, 2008.

(c) Mechanic Qualifications. – An applicant for a license as a safety inspection mechanic must meet all of the following requirements:

(1) Have successfully completed an eight-hour course approved by the Division that teaches students about the safety equipment a motor vehicle is required to have to pass a safety inspection and how to conduct a safety ~~inspection.~~inspection using equipment to electronically transmit the vehicle information and inspection results.

(2) Have a drivers license.

(3) Be of good character and have a reputation for honesty.

(d) Self-Inspector Qualifications. – An applicant for a license as a safety self-inspector must meet all of the following requirements:

(1) Operate a fleet of at least 10 vehicles that are subject to a safety inspection.

(2) Regularly employ or contract with an individual who has a safety inspection mechanic license and who will perform a safety inspection on the vehicles that are part of the self-inspector's fleet."

SECTION 4. G.S. 20-183.4A reads as rewritten:

"§ **20-183.4A. License required to perform emissions inspection; qualifications for license.**

(a) License Required. – An emissions inspection must be performed by one of the following methods:

(1) At a station that has an emissions inspection station license issued by the Division and by a mechanic who is employed by the station and has an emissions inspection mechanic license issued by the Division.

(2) At a place of business of a person who has an emissions self-inspector license issued by the Division and by an individual who has an emissions inspection mechanic license.

(b) Station Qualifications. – An applicant for a license as an emissions inspection station must meet all of the following requirements:

(1) Have a license as a safety inspection station.
(2) Repealed by Laws 2000-134, s. 15, effective January 1, 2006.
(2a) Have equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.
(3) Have equipment and software to transfer information on emissions inspections to the Division by electronic means. During the initial implementation of the electronic inspection process, the vendor selected by the Division shall provide the software at no cost to a station that holds a license on October 1, 2008.
(4) Regularly employ at least one mechanic who has an emissions inspection mechanic license.

(c) Mechanic Qualifications. – An applicant for a license as an emissions inspection mechanic must meet all of the following requirements:

(1) Have a license as a safety inspection mechanic.
(2) Repealed by Laws 2000-134, s. 15, effective January 1, 2006.
(2a) Have successfully completed an eight-hour course approved by the Division that teaches students about the causes and effects of the air pollution problem, the purpose of the emissions inspection program, the vehicle emission standards established by the United States Environmental Protection Agency, the emission control devices on vehicles, how to conduct an emissions inspection using equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-Inspector Qualifications. – An applicant for a license as an emissions self-inspector must meet all of the following requirements:

(1) Have a license as a safety self-inspector.
(2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.
(3) Repealed by Laws 2000-134, s. 15, effective January 1, 2006.
(3a) Have, or have a contract with a person who has, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.
(4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet."

SECTION 5. G.S. 20-183.4C(a) reads as rewritten:

"(a) Inspection. – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

(1) A new vehicle must be inspected before it is sold at retail in this State. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
(2) A used vehicle must be inspected before it is offered for sale at retail in this State by a ~~dealer at a location other than a public auction.~~

dealer. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.

~~(3) A used vehicle that is offered for sale at retail in this State by a dealer at a public auction must be inspected before it is offered for sale unless it has an inspection sticker that was put on the vehicle under this Part and does not expire until at least nine months after the date the vehicle is offered for sale at auction.~~

(4) A new or used vehicle acquired by a resident of this State from ~~a person~~ outside the State must be inspected within 10 days after the vehicle is registered with the Division.

(5) A vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected within 10 days after the vehicle is registered with the Division.

~~(5a) If the registration of a vehicle is transferred from a county that is not an emissions county to an emissions county, the vehicle must be inspected in accordance with this Part within 60 days of the transfer of registration.~~

(6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the ~~inspection sticker~~registration on the vehicle ~~expires, unless another subdivision of this section requires it to be inspected sooner.~~expires.

(7) A vehicle that is required to be inspected in accordance with this Part may be inspected 90 days prior to midnight of the last day of the month as designated by the vehicle registration sticker.

(8) A new or used vehicle acquired from a retailer in this State and registered with the Division with a new registration or a transferred registration must be inspected in accordance with this Part when the current registration expires.

(9) A used vehicle acquired from a private sale in this State must be inspected in accordance with this Part within 30 days after the vehicle is registered with the Division or when the current registration expires if it has not received a passing inspection within the previous 12 months.

(10) An unregistered vehicle must be inspected within 30 days after the vehicle is registered with the Division or not later than 30 days after a transferred registration expires.

(11) A person who owns a vehicle located outside of this State when its emissions inspection becomes due may obtain an emissions inspection in the jurisdiction where the vehicle is located, in lieu of a North Carolina emissions inspection, as long as the inspection meets the requirements of 40 C.F.R. § 51."

SECTION 6. G.S. 20-183.4D reads as rewritten:

"§ **20-183.4D. Procedure when a vehicle is inspected.**

(a) Receipt. – When a safety inspection mechanic or an emissions inspection mechanic inspects a vehicle, the mechanic must give the person who brought the vehicle in for inspection an inspection receipt. The inspection receipt must state the date of the inspection, identify the mechanic performing the inspection, identify the station or self-inspector where the inspection was performed, and list the components of the

inspection performed and indicate for each component whether the vehicle passed or failed. A vehicle that fails a component of an inspection may be repaired at any repair facility chosen by the owner or operator of the vehicle.

(b) ~~Sticker.~~Electronic Inspection Authorization. – When a vehicle that is subject to a safety inspection only passes the safety inspection, the safety inspection mechanic who performed the inspection must ~~put an inspection sticker on the windshield of~~issue an electronic inspection authorization to the vehicle at the place designated by the Division. When a vehicle that is subject to both a safety inspection and an emissions inspection passes both inspections or passes the safety inspection and has a waiver for the emissions inspection, the emissions mechanic performing the inspection must ~~put an inspection sticker on the windshield of~~issue an electronic inspection authorization to the vehicle at the place designated by the Division.

~~(c) Content of Sticker. – An inspection sticker issued for a vehicle that is subject to a safety inspection only must be a different color from an inspection sticker issued for a vehicle that is subject to both a safety and an emissions inspection. An inspection sticker must indicate when it expires, must be printed with a unique serial number and an official program seal, and must be counterfeit resistant. The side of an inspection sticker that is readable from the interior of a vehicle must contain the following information:~~

~~(1) The date the inspection was performed.~~

~~(2) The odometer reading when the inspection was performed.~~

~~(3) The signature, initials, or other identification of the mechanic who performed the inspection and put the sticker on the windshield.~~

~~(d) When Sticker Expires. – An inspection sticker put on a vehicle that did not have an inspection sticker issued under this Part when it was brought in for inspection expires at midnight on the last day of the twelfth month after the month the inspection sticker is put on the vehicle. An inspection sticker put on a vehicle that had an inspection sticker that was put on under this Part when it was brought in for inspection expires as follows:~~

~~(1) If the expiration date of the inspection sticker the vehicle had when it was brought in for inspection is less than 12 full months from the date of the inspection, the inspection sticker expires at midnight on the last day of the twelfth month after the month the inspection sticker is put on the vehicle.~~

~~(2) If the expiration date of the inspection sticker the vehicle had when it was brought in for inspection is 12 or more months from the date of the inspection, the inspection sticker expires one year after the expiration date of the inspection sticker the vehicle had when it was brought in for inspection, regardless of whether there are 12 months in this period.~~

(e) When Electronic Inspection Authorization Expires. – An electronic inspection authorization issued under this Part expires at midnight of the last day of the month designated by the vehicle registration sticker of the following year."

SECTION 7. G.S. 20-183.5 reads as rewritten:

"§ **20-183.5. When a vehicle that fails an emissions inspection may obtain a waiver from the inspection requirement.**

(a) **(For amendment to subsection (a) effective January 1, 2006, see notes.)** Requirements. – The Division may issue a waiver for a ~~vehicle~~ vehicle, excluding a

vehicle owned or being held for retail sale by a motor vehicle dealer, that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection but fails the analysis of exhaust emissions or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is ~~seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is~~ two hundred dollars ~~($200.00) if the vehicle is a 1981 or newer model.~~($200.00).

(3) Is reinspected and again fails the inspection because it passes the visual inspection but fails the analysis of exhaust emissions or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § ~~51.360.~~51.360, or as designated by the Division.

(b) Procedure. – To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a waiver is issued must present the waiver to the self-inspector or inspection station performing the inspection to obtain an ~~inspection sticker.~~electronic inspection authorization.

(c) Repairs. – The following repairs and their costs cannot be considered in determining whether the cost of repairs made to a vehicle equals or exceeds the waiver amount:

(1) Repairs covered by a warranty that applies to the vehicle.

(2) Repairs needed as a result of tampering with an emission control device of the vehicle.

(3) ~~If the vehicle is a 1981 or newer model, repairs~~ Repairs made by an individual who is not professionally engaged in the business of repairing vehicles.

(4) OBD diagnostics without corresponding repairs.

(d) ~~Sticker Expiration.~~Electronic Inspection Authorization. – An ~~inspection sticker put on~~ electronic inspection authorization issued to a vehicle after the vehicle receives a waiver from the requirement of passing the emissions inspection expires at the same time it would if the vehicle had passed the emissions inspection."

SECTION 8. G.S. 20-183.5A reads as rewritten:

"§ **20-183.5A. When a vehicle that fails a safety inspection because of missing emissions control devices may obtain a waiver.**

(a) Requirements. – The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails a safety inspection because it does not have one or more emissions control devices.

(2) Has documented repairs within the previous calendar year to replace missing emissions control devices costing at least the waiver amount

made to the vehicle to correct the cause of the failure. The waiver amount is ~~seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is~~ two hundred dollars ($200.00) if the vehicle is a ~~1981~~1996 or newer model.

(b) Procedure. – To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a waiver is issued must present the waiver to the self-inspector or inspection station performing the inspection to obtain an ~~inspection sticker.~~electronic inspection authorization.

(c) Repairs. – The following repairs and their costs cannot be considered in determining whether the cost of repairs made to a vehicle equals or exceeds the waiver amount:

(1) Repairs covered by a warranty that applies to the vehicle.

(2) Repairs needed as a result of tampering with an emission control device of the vehicle.

(3) ~~If the vehicle is a 1981 or newer model, repairs~~ Repairs made by an individual who is not professionally engaged in the business of repairing vehicles.

(d) Sticker Expiration. – An inspection sticker put on a vehicle after the vehicle receives a waiver from the requirement of passing the safety inspection expires at the same time it would if the vehicle had passed the safety inspection."

SECTION 9. G.S. 20-183.5A(d) reads as rewritten:

"(d) ~~Sticker~~Electronic Inspection Authorization Expiration. – An ~~inspection sticker put on~~ electronic inspection authorization issued to a vehicle after the vehicle receives a waiver from the requirement of passing the safety inspection expires at the same time it would if the vehicle had passed the safety inspection."

SECTION 10. G.S. 20-183.6 is repealed.

SECTION 11. G.S. 20-183.6A(a) reads as rewritten:

"(a) Division. – The Division is responsible for administering the safety inspection and the emissions inspection programs. In exercising this responsibility, the Division must:

(1) Conduct performance audits, record audits, and equipment audits of those licensed to perform inspections to ensure that inspections are performed properly.

(2) Ensure that Division personnel who audit license holders are knowledgeable about audit procedures and about the requirements of both the safety inspection and the emissions inspection programs.

(3) Perform an emissions inspection on a vehicle when requested to do so by a vehicle owner so the owner can compare the result of the inspection performed by the Division with the result of an inspection performed at an emissions inspection station.

(4) Investigate complaints about a person licensed to perform inspections and reports of irregularities in performing inspections.

(5) Establish written procedures for the issuance of ~~inspection stickers~~ electronic inspection authorizations to persons licensed to perform ~~inspections.~~electronic inspection authorizations.

(6) Submit information and reports to the federal Environmental Protection Agency as required by 40 C.F.R. Part 51.

(b) License Holders. – A person who is licensed by the Division under this Part must post the license at the place required by the Division and must keep a record of inspections performed. The inspection record must identify the vehicle that was inspected, indicate the type of inspection performed and the date of inspection, and contain any other information required by the Division. A self-inspector or an inspection station must send its records of inspections to the Division in the form and at the time required by the Division. An auditor of the Division may review the inspection records of a person licensed by the Division under this Part during normal business hours."

SECTION 12. G.S. 20-183.7 reads as rewritten:

"§ **20-183.7. Fees for performing an inspection and ~~putting an inspection sticker on~~ issuing an electronic inspection authorization to a vehicle; use of civil penalties.**

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an ~~inspection sticker,~~ electronic inspection authorization, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an ~~inspection sticker:~~electronic inspection authorization:

Type	Inspection	~~Sticker~~ Authorization
Safety Only	~~$ 8.25~~$12.75	$0.85
Emissions and Safety	23.75	6.25.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an ~~inspection sticker~~ electronic inspection authorization applies when an ~~inspection sticker is put on~~ electronic inspection authorization is issued to a vehicle. ~~The fee for an inspection sticker does not apply to a replacement inspection sticker for use on a windshield replaced by a business registered with the Division pursuant to G.S. 20-183.6.~~ The fee for inspecting after-factory tinted windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The ~~sticker~~ authorization fees set out in this subsection may not be increased or decreased.

(b) Self-Inspector. – The fee for an inspection does not apply to an inspection performed by a self-inspector. The fee for ~~putting an inspection sticker on~~ issuing an electronic inspection authorization to a vehicle applies to an inspection performed by a self-inspector.

(c) Fee Distribution. – Fees collected for ~~inspection stickers~~ electronic inspection authorizations are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Emissions Program Account established in subsection (d) of this section, the Telecommunications Account established in subsection (d1) of this section, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environment and Natural Resources:

Recipient	Safety Only ~~Sticker~~ Electronic Authorization	Emissions and Safety ~~Sticker~~ Electronic Authorization
Highway Fund	.55	.55
Emissions Program Account	.00	3.00
Telecommunications Account	.00	1.75
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	.65

(d) Emissions Program Account. – The Emissions Program Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to fund the vehicle emissions inspection and maintenance program.

(d1) Telecommunications Account. – The Telecommunications Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to provide equipment and telecommunications services associated with the vehicle safety and emissions inspection and maintenance program.

(e) Civil Penalties. – Civil penalties collected under this Part shall be credited to the Highway Fund as nontax revenue.

(f) Inspection Stations Required to Post Fee Information. – The Division shall approve the form and style of one or more standard signs to be used to display the information required by this subsection. The Division shall require that one or more of the standard signs be conspicuously posted at each inspection station in a manner reasonably calculated to make the information on the sign readily available to each person who presents a motor vehicle to the station for inspection. The sign shall include the following information:

(1) The maximum and minimum amounts of the inspection fee authorized by this section.

(2) The amount of the inspection fee charged by the inspection station and a statement that clearly indicates that the amount of the inspection fee is determined by the inspection station, that the inspection fee is retained by the inspection station to compensate the station for

performing the inspection, and that the inspection fee is not paid to the State.

(3) The amount of the ~~sticker~~ electronic inspection authorization fee, if the motor vehicle passes the inspection, a statement that the ~~sticker~~ electronic inspection authorization fee is paid to the State, and a brief summary of the purposes for which the ~~sticker~~ electronic inspection authorization fee is collected.

(4) The total fee to be charged if the motor vehicle passes the inspection.

(5) A statement that a vehicle that fails an inspection may be reinspected at the same station within 30 days of the inspection without payment of another inspection fee.

(g) Information on Receipt. – The information set out in subdivisions (1) through (5) of subsection (f) of this section shall be set out in not smaller than 12 point type and shall be shown graphically in the form of a pie chart on the inspection receipt.

(h) Subsections (f) and (g) of this section apply only to inspection stations that perform both emissions and safety inspections."

SECTION 13. G.S. 20-183.7B reads as rewritten:

"§ **20-183.7B. Acts that are Type I, II, or III safety violations.**

(a) Type I. – It is a Type I violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without performing a safety inspection of vehicle.

(2) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle after performing a safety inspection of the vehicle and determining that the vehicle did not pass the inspection.

(3) Allow a person who is not licensed as a safety inspection mechanic to perform a safety inspection for a self-inspector or at a safety station.

(4) ~~Sell~~ Sell, issue, or otherwise give an ~~inspection sticker~~electronic inspection authorization to another, other than as the result of a vehicle inspection in which the vehicle passed the inspection.

(5) Be unable to account for five or more ~~inspection stickers~~electronic inspection authorizations at any one time upon the request of an officer of the Division.

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

(7) Transfer an ~~inspection sticker~~electronic inspection authorization from one vehicle to another.

(8) Conduct a safety inspection of a vehicle without driving the vehicle and without raising the vehicle and without opening the hood of the vehicle to check equipment located therein.

(9) Solicit or accept anything of value to pass a vehicle other than as provided in this Part.

(b) Type II. – It is a Type II violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without driving the vehicle and checking the vehicle's braking reaction, foot brake pedal reserve, and steering free play.

(2) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without raising the vehicle to free each wheel and checking the vehicle's tires, brake lines, parking brake cables, wheel drums, exhaust system, and the emissions equipment.

(3) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without raising the hood and checking the master cylinder, horn mounting, power steering, and emissions equipment.

(4) Conduct a safety inspection of a vehicle outside the designated inspection area.

(5) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle with inoperative equipment, or with equipment that does not conform to the vehicle's original equipment or design specifications, or with equipment that is prohibited by any provision of law.

(6) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without performing a visual inspection of the vehicle's exhaust system.

(7) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle without checking the exhaust system for leaks.

(8) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle that is required to have any of the following emissions control devices but does not have the device:

a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(9) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle after failing to inspect four or more of following:

a. Emergency brake.
b. Horn.
c. Headlight high beam indicator.
d. Inside rearview mirror.
e. Outside rearview mirror.
f. Turn signals.
g. Parking lights.
h. Headlights – operation and lens.
i. Headlights – aim.
j. Stoplights.
k. Taillights.
l. License plate lights.
m. Windshield wiper.

n. Windshield wiper blades.
o. Window tint.

(10) Impose no fee for a safety inspection of a vehicle or the issuance of a safety ~~inspection sticker~~ electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. – It is a Type III violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

(1) Fail to post a safety inspection station license issued by the Division.
(2) Fail to send information on safety inspections to the Division at the time or in the form required by the Division.
(3) Fail to post all safety information required by federal law and by the Division.
(4) Fail to put the required information on an ~~inspection sticker or~~ inspection receipt in a legible manner using ink.
(5) Issue a receipt that is signed by a person other than the safety inspection mechanic.
(6) Place an incorrect expiration date on an ~~inspection sticker.~~electronic inspection authorization.
(7) ~~Put~~ Issue a safety ~~inspection sticker on~~ electronic inspection authorization to a vehicle after having failed to inspect three or fewer of the following:
a. Emergency brake.
b. Horn.
c. Headlight high beam indicator.
d. Inside rearview mirror.
e. Outside rearview mirror.
f. Turn signals.
g. Parking lights.
h. Headlights – operation and lens.
i. Headlights – aim.
j. Stoplights.
k. Taillights.
l. License plate lights.
m. Windshield wiper.
n. Windshield wiper blades.
o. Window tint.

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

SECTION 14. G.S. 20-183.8 reads as rewritten:

"§ **20-183.8. Infractions and criminal offenses for violations of inspection requirements.**

(a) Infractions. – A person who does any of the following commits an infraction and, if found responsible, is liable for a penalty of up to fifty dollars ($50.00):

(1) Operates a motor vehicle that is subject to inspection under this Part on a highway or public vehicular area in the State when the vehicle has not been inspected in accordance with this Part, as evidenced by the

vehicle's lack of a current ~~inspection sticker~~electronic inspection authorization or otherwise.

(2) Allows an ~~inspection sticker~~electronic inspection authorization to be ~~put on~~ issued to a vehicle owned or operated by that person, knowing that the vehicle was not inspected before the ~~sticker~~ electronic inspection authorization was ~~attached~~ issued or was not inspected properly.

(3) ~~Puts~~ Issues an ~~inspection sticker~~ electronic inspection authorization on a vehicle, knowing or having reasonable grounds to know that an inspection of the vehicle was not performed or was performed improperly. A person who is cited for a civil penalty under G.S. 20-183.8B for an emissions violation involving the inspection of a vehicle may not be charged with an infraction under this subdivision based on that same vehicle.

(4) Alters the original certified configuration or data link connectors of a vehicle in such a way as to make an emissions inspection by analysis of data provided by on-board diagnostic (OBD) equipment inaccurate or impossible.

(b) Defenses to Infractions. – Any of the following is a defense to a violation under subsection (a) of this section:

(1) The vehicle was continuously out of State for at least the 30 days preceding the date the ~~inspection sticker~~electronic inspection authorization expired and a current ~~inspection sticker~~ electronic inspection authorization was obtained within 10 days after the vehicle came back to the State.

(2) The vehicle displays a dealer license plate or a transporter plate, the dealer repossessed the vehicle or otherwise acquired the vehicle within the last 10 days, and the vehicle is being driven from its place of acquisition to the dealer's place of business or to an inspection station.

(3) Repealed by Session Laws 1997-29, s. 5.

(4) The charged infraction is described in subdivision (a)(1) of this section, the vehicle is subject to a safety inspection or an emissions inspection and the vehicle owner establishes in court that the vehicle was inspected after the citation was issued and within 30 days of the expiration date of the inspection sticker that was on the vehicle or the electronic inspection authorization was issued to the vehicle when the citation was issued.

(c) Felony. – A person who does any of the following commits a Class I felony:

(1) Forges an inspection ~~sticker.~~sticker or inspection receipt.

(2) Buys, sells, issues, or possesses a forged inspection ~~sticker.~~sticker or electronic inspection authorization.

(3) Buys, sells, issues, or possesses an ~~inspection sticker~~electronic inspection authorization other than as the result of either of the following:

a. Having a license as an inspection station, a self-inspector, or an inspection mechanic and obtaining the ~~inspection sticker~~ electronic inspection authorization from the Division through an electronic authorization vendor in the course of business.

b. A vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(4) Solicits or accepts anything of value in order to pass a vehicle that fails a safety or emissions inspection.

(5) Fails a vehicle for any reason not authorized by law."

SECTION 15. G.S. 20-183.8A reads as rewritten:

"§ **20-183.8A. Civil penalties against motorists for emissions violations.**

The Division shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is ~~one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and~~ two hundred fifty dollars ~~($250.00) if the vehicle is a 1981 or newer model vehicle.~~($250.00). As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this section has been paid."

SECTION 16. G.S. 20-183.8C reads as rewritten:

"§ **20-183.8C. Acts that are Type I, II, or III emissions violations.**

(a) Type I. – It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) ~~Put~~ Issue an emissions ~~inspection sticker~~ electronic inspection authorization on a vehicle without performing an emissions inspection of the vehicle.

(1a) ~~Put~~ Issue an emissions ~~inspection sticker on~~ electronic inspection authorization to a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions ~~inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result,~~ inspection by changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year, or using data provided by the on-board diagnostic (OBD) equipment of another vehicle to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) ~~Sell~~ Sell, issue, or otherwise give an ~~inspection sticker~~electronic inspection authorization to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(5) Be unable to account for five or more ~~inspection stickers~~ electronic inspection authorizations at any one time upon the request of an auditor of the Division.

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

(7) Transfer an ~~inspection sticker~~ electronic inspection authorization from one vehicle to another.

(b) Type II. – It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access to an emissions analyzer or to equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(2) Keep ~~inspection stickers and other~~ compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.

(3) ~~Put~~ Issue a safety ~~inspection sticker~~ electronic inspection authorization or an emissions ~~inspection sticker~~ electronic inspection authorization on a vehicle that is required to have one of the following emissions control devices but does not have it:

a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(4) ~~Put~~ Issue a safety ~~inspection sticker~~electronic inspection authorization or an emissions ~~inspection sticker~~ electronic inspection authorization on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.

(5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions ~~inspection sticker~~ electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. – It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(3) Fail to post emissions information required by federal law to be posted.

~~(4) Fail to put the required information on an inspection sticker in a legible manner using ink.~~

(5) Fail to put the required information on an inspection receipt in a legible manner.

~~(6) Fail to maintain a maintenance log for an emissions analyzer or for equipment to analyze data provided by on-board diagnostic (OBD) equipment.~~

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

SECTION 16.1. The Division may utilize the vendor currently providing services for the emissions stations to help implement the provisions of this act.

SECTION 16.2. The Division shall report on the progress of implementing this act to the Joint Legislative Transportation Oversight Committee by May 1, 2008.

SECTION 17. This act becomes effective October 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 12:58 p.m. on the 30th day of August, 2007.

Session Law 2007-504 **House Bill 627**

AN ACT TO MAKE CHANGES TO AND STRENGTHEN THE MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES SYSTEM WITH RESPECT TO: THE FIRST COMMITMENT PILOT PROGRAM; LME FUNCTIONS, ADMINISTRATION, AND BOARD MEMBERSHIP; THE COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES RULE-MAKING AUTHORITY AND PROFESSIONAL STAFFING; THE QUALITY AND ACCESS OF MENTAL HEALTH SERVICES; AND REQUIREMENTS PERTAINING TO LME BUSINESS PLANS.

The General Assembly of North Carolina enacts:

SECTION 1.1.(a) S.L. 2003-178, as amended by S.L. 2006-66, Section 10.27, reads as rewritten:

"**SECTION 1.** The Secretary of Health and Human Services may, upon request of ~~a phase-one local management entity~~an LME, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

(1) The Secretary has received a request from ~~a phase-one local management entity~~an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the ~~local management entity~~LME shall ~~be submitted as part of the entity's local business plan and shall~~ specifically describe:

a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.

b. How the waiver will enable the ~~local management entity~~LME to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
c. How the services to be provided by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist under the waiver are within each of these professional's scope of practice.
d. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.

(2) The Secretary shall review the request and may approve it upon finding that:
a. The request meets the requirements of this section.
b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the waiver and also protects the health, safety, and welfare of individuals receiving these services.
d. The duties and responsibilities performed by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist are within the individual's scope of practice.

(3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver. The Secretary shall send a report on the evaluation to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substances Abuse Services ~~on or before July 1, 2006.~~ by October 1, 2009. The report shall include data gathered from all participating LMEs since the beginning of the pilot.

(4) The waiver granted by the Secretary under this section shall be in effect until October 1, ~~2007.~~2010.

(5) The Secretary may grant a waiver under this section to up to ~~five~~ 10 ~~local management entities that have been designated as phase one entities as of July 1, 2003.~~LMEs.

(6) In no event shall the substitution of a licensed clinical social worker, masters level psychiatric nurse, or masters level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist.

(7) The Department shall assure that staff performing the duties are trained and privileged to perform the functions identified in the waiver. The Department shall involve stakeholders including, but not limited to, the North Carolina Psychiatric Association, The North Carolina Nurses Association, National Association of Social Workers, The North Carolina Substance Abuse Professional Certification Board,

North Carolina Psychological Association, The North Carolina Society for Clinical Social Work, and the North Carolina Medical Society in developing required staff competencies.

(8) The ~~local management entity~~LME shall assure that a physician is available at all times to provide backup support to include telephone consultation and face-to-face evaluation, if necessary.

SECTION 2. This act becomes effective July 1, 2003, and expires October 1, ~~2007.~~2010."

SECTION 1.1.(b) The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) shall review the report submitted by the Secretary under Section 1.1.(a) of this act. The LOC shall make recommendations to the 2010 Regular Session of the 2009 General Assembly regarding whether to extend the pilot, discontinue the pilot, or make the provisions of the pilot permanent and statewide.

SECTION 1.2. G.S. 122C-115.4 reads as rewritten:

"§ **122C-115.4. Functions of local management entities.**

(a) Local management entities are responsible for the management and oversight of the public system of mental health, developmental disabilities, and substance abuse services at the community level. An LME shall plan, develop, implement, and monitor services within a specified geographic area to ensure expected outcomes for consumers within available resources.

(b) The primary functions of an LME are designated in this subsection and shall not be conducted by any other entity unless an LME voluntarily enters into a contract with that entity under subsection (c) of this section. The primary functions include all of the following:

(1) Access for all citizens to the core services and administrative functions described in G.S. 122C-2. In particular, this shall include the implementation of a 24-hour a day, seven-day a week screening, triage, and referral process and a uniform portal of entry into care.

(2) Provider endorsement, monitoring, technical assistance, capacity development, and quality control. An LME may remove a provider's endorsement if a provider fails to meet defined quality ~~criteria~~ criteria, fails to adequately document the provision of services, fails to provide required staff training, or fails to provide required data to the LME.

(3) Utilization management, utilization review, and determination of the appropriate level and intensity of ~~services~~ services. An LME may participate in the development of person centered plans for any consumer and shall monitor the implementation of person centered plans. An LME shall review and approve ~~including the review and approval of the~~ person centered plans for consumers who receive State-funded ~~services. Concurrent review~~ services and shall conduct concurrent reviews of person centered plans for ~~all~~ consumers in the LME's catchment area who receive Medicaid funded services.

(4) Authorization of the utilization of State psychiatric hospitals and other State facilities. Authorization of eligibility determination requests for recipients under a CAP-MR/DD waiver.

(5) Care coordination and quality management. This function ~~includes the direct monitoring of the effectiveness of person centered plans. It also includes the initiation of and participation in the development of~~

~~required modifications to the plans for high risk and high cost consumers in order to achieve better client outcomes or equivalent outcomes in a more cost-effective manner. Monitoring effectiveness includes reviewing client outcomes data supplied by the provider, direct contact with consumers, and review of consumer charts.~~ involves individual client care decisions at critical treatment junctures to assure clients' care is coordinated, received when needed, likely to produce good outcomes, and is neither too little nor too much service to achieve the desired results. Care coordination is sometimes referred to as "care management." Care coordination shall be provided by clinically trained professionals with the authority and skills necessary to determine appropriate diagnosis and treatment, approve treatment and service plans, when necessary to link clients to higher levels of care quickly and efficiently, to facilitate the resolution of disagreements between providers and clinicians, and to consult with providers, clinicians, case managers, and utilization reviewers. Care coordination activities for high-risk/high-cost consumers or consumers at a critical treatment juncture include the following:

a. Assisting with the development of a single care plan for individual clients, including participating in child and family teams around the development of plans for children and adolescents.
b. Addressing difficult situations for clients or providers.
c. Consulting with providers regarding difficult or unusual care situations.
d. Ensuring that consumers are linked to primary care providers to address the consumer's physical health needs.
e. Coordinating client transitions from one service to another.
f. Conducting customer service interventions.
g. Assuring clients are given additional, fewer, or different services as client needs increase, lessen, or change.
h. Interfacing with utilization reviewers and case managers.
i. Providing leadership on the development and use of communication protocols.
j. Participating in the development of discharge plans for consumers being discharged from a State facility or other inpatient setting who have not been previously served in the community.

(6) Community collaboration and consumer affairs including a process to protect consumer rights, an appeals process, and support of an effective consumer and family advisory committee.

(7) Financial management and accountability for the use of State and local funds and information management for the delivery of publicly funded services.

Subject to all applicable State and federal laws and rules established by the Secretary and the Commission, nothing in this subsection shall be construed to preempt or supersede the regulatory or licensing authority of other State or local departments or divisions.

(c) Subject to subsection (b) of this section and all applicable State and federal laws and rules established by the Secretary, an ~~area authority, or county program or consolidated human services agency~~ LME may contract with a public or private entity for the implementation of LME functions ~~articulated~~ designated under subsection (b) of this section.

(d) Except as provided in ~~G.S. 122C-142.1~~ G.S. 122C-124.1 and G.S. 122C-125, the Secretary may ~~not~~ neither remove from an LME nor designate another entity as eligible to implement any function enumerated under subsection (b) of this section unless all of the following applies:

(1) The LME fails during the previous three months to achieve a satisfactory outcome on any of the critical performance measures developed by the Secretary under G.S. 122C-112.1(33).

(2) The Secretary provides focused technical assistance to the LME in the implementation of the function. The assistance shall continue for at least six months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.

(3) If, after six months of receiving technical assistance from the Secretary, the LME still fails to achieve or maintain a satisfactory outcome on the critical performance measure, the Secretary shall enter into a contract with another LME or agency to implement the function on behalf of the LME from which the function has been removed.

(e) Notwithstanding subsection (d) of this section, in the case of serious financial mismanagement or serious regulatory noncompliance, the Secretary may temporarily remove an LME function after consultation with the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(f) The Commission shall adopt rules regarding the following matters:

(1) The definition of a high risk consumer. Until such time as the Commission adopts a rule under this subdivision, a high risk consumer means a person who has been assessed as needing emergent crisis services three or more times in the previous 12 months.

(2) The definition of a high cost consumer. Until such time as the Commission adopts a rule under this subdivision, a high cost consumer means a person whose treatment plan is expected to incur costs in the top twenty percent (20%) of expenditures for all consumers in a disability group.

(3) The notice and procedural requirements for removing one or more LME functions under subsection (d) of this section."

SECTION 1.3. G.S. 122C-115(a1) reads as rewritten:

"(a1) Effective July 1, 2007, ~~The~~ the Department of Health and Human Services shall reduce by ten percent (10%) annually the administrative funding for ~~area authorities and county programs~~ LMEs that do not comply with the catchment area requirements of ~~this section.~~subsection (a) of this section. However, an LME that does not comply with the catchment area requirements because of a change in county membership shall have 12 months from the effective date of the change to comply with subsection (a) of this section."

SECTION 1.4. G.S. 122C-118.1(a) and (b) read as rewritten:

"(a) An area board shall have no fewer than 11 and no more than 25 members. However, the area board for a multicounty area authority consisting of eight or more

counties ~~and serving a catchment area with a population of more than 500,000~~ may have up to 30 members. In a single-county area authority, the members shall be appointed by the board of county commissioners. Except as otherwise provided, in areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area board. These members shall appoint the other members. The boards of county commissioners within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with G.S. 122C-115.2(b). These appointments shall take into account sufficient citizen participation, representation of the disability groups, and equitable representation of participating counties. Individuals appointed to the board shall include two individuals with financial expertise, an individual with expertise in management or business, and an individual representing the interests of children. A member of the board may be removed with or without cause by the initial appointing authority. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.

(b) ~~Not~~ Except as otherwise provided in this subsection, not more than fifty percent (50%) of the members of the area board shall represent the following:

(1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry.

(2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse.

(3) At least one family member or individual from a citizens' organization composed primarily of consumers or their family members, representing the interests of individuals:

a. With mental illness;

b. In recovery from addiction; or

c. With developmental disabilities.

(4) At least one openly declared consumer:

a. With mental illness;

b. With developmental disabilities; or

c. In recovery from addiction.

An individual that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve on the board of the LME for the period during which the contract for services is in effect."

SECTION 2.1. G.S. 122C-115.2(a) and (c) read as rewritten:

"§ **122C-115.2. LME business plan required; content, process, certification.**

(a) Every county, through an area authority or county program, shall provide for the development, review, and approval of an LME business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services. An LME business plan shall provide detailed information regarding how the area authority or county program will meet State standards, laws, and rules for ensuring quality mental health, developmental disabilities, and substance abuse services, including outcome measures for evaluating program effectiveness. The business plan

shall be in effect for at least three State fiscal years. The Secretary shall develop a model business plan that illustrates compliance with this section, including specific State standards and rules adopted by the Secretary. The Secretary shall provide each LME with the model business plan to assist the LME in developing its business plan.

(c) The county program or area authority proposing the business plan shall submit the proposed plan as approved by the board of county commissioners to the Secretary for review and certification. The Secretary shall review the business plan within 30 days of receipt of the plan. If the business plan meets all of the requirements of State law and standards adopted by the Secretary, then the Secretary shall certify the area authority or county program as a single-county area authority, a single-county program, a multicounty area authority, or a multicounty program. A business plan that demonstrates substantial compliance with the model business plan developed by the Secretary shall be deemed as meeting the requirements of State law and standards adopted by the Secretary. Implementation of the certified plan shall begin within 30 days of certification. If the Secretary determines that changes to the plan are necessary, then the Secretary shall so notify the submitting county program or area authority and the applicable participating boards of county commissioners and shall indicate in the notification the changes that need to be made in order for the proposed program to be certified. If the Secretary determines that a business plan needs substantial changes in order to be certifiable, the Secretary shall provide the LME submitting the plan with detailed information on each area of the plan that is in need of change, the particular State law or standard adopted by the Secretary that has not been met, and instructions or assistance on what changes need to be made in order for the plan to be certifiable. The submitting county program or area authority shall have 30 days from receipt of the Secretary's notice to make the requested changes and resubmit the amended plan to the Secretary for review. The Secretary shall provide whatever assistance is necessary to resolve outstanding issues. Amendments to the business plan shall be subject to the approval of the participating boards of county commissioners.

(d) Annually, in accordance with procedures established by the Secretary, each area authority and county program submitting a business plan shall enter into a memorandum of agreement with the Secretary for the purpose of ensuring that State funds are used in accordance with priorities expressed in the business plan."

SECTION 2.2. G.S. 122C-112.1(a)(14) reads as rewritten:

"§ **122C-112.1. Powers and duties of the Secretary.**

(a) The Secretary shall do all of the following:

…

(14) ~~Adopt rules for the implementation of the uniform portal process.~~Implement the uniform portal process developed under rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services in accordance with G.S. 122C-114.

…"

SECTION 2.3. G.S. 122C-114 reads as rewritten:

"§ **122C-114. Powers and duties of the Commission.**

(a) The Commission shall have authority as provided by this Chapter, Chapters 90 and 148 of the General Statutes, and by G.S. 143B-147.

(b) The Commission shall adopt rules regarding all of the following:

(1) The development of a process for screening, triage, and referral, including a uniform portal process, for implementation by the Secretary as required under G.S. 122C-112.1(14).

(2) LME monitoring and endorsement of providers of mental health, developmental disabilities, and substance abuse services.

(3) LME provision of technical assistance to providers of mental health, developmental disabilities, and substance abuse services.

(4) The requirements of a qualified public or private provider as that term is used in G.S. 122C-141. In adopting rules under this subsection, the Commission shall take into account the need to ensure fair competition among providers."

SECTION 2.4.(a) G.S. 122C-141 reads as rewritten:

"§ **122C-141. Provision of services.**

(a) The area authority or county program shall contract with other qualified public or private providers, agencies, institutions, or resources for the provision of services, and, subject to the approval of the Secretary, is authorized to provide services directly. The area authority or county program shall indicate in its local business plan how services will be provided and how the provision of services will address issues of access, availability of qualified public or private providers, consumer choice, and fair competition. The Secretary shall take into account these issues when reviewing the local business plan and considering approval of the direct provision of services. Unless an area authority or county program requests a shorter time, any approval granted by the Secretary shall be for not less than one year. The Secretary shall develop criteria for the approval of direct service provision by area authorities and county programs in accordance with this section and as evidenced by compliance with the local business plan. For the purposes of this section, a qualified public or private provider is a provider that meets the provider qualifications as defined by rules adopted by the Secretary.

(b) All area authority or county program services provided directly or under contract shall meet the requirements of applicable State statutes and the rules of the Commission and the Secretary. The Secretary may delay payments and, with written notification of cause, may reduce or deny payment of funds if an area authority or county program fails to meet these requirements.

(c) The area authority or board of county commissioners of a county program may contract with a health maintenance organization, certified and operating in accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for the area authority or county program, to provide mental health, developmental disabilities, or substance abuse services to enrollees in a health care plan provided by the health maintenance organization. The terms of the contract must meet the requirements of all applicable State statutes and rules of the Commission and Secretary governing both the provision of services by an area authority or county program and the general and fiscal operation of an area authority or county program and the reimbursement rate for services rendered shall be based on the usual and customary charges paid by the health maintenance organization to similar providers. Any provision in conflict with a State statute or rule of the Commission or the Secretary shall be void; however, the presence of any void provision in that contract does not render void any other provision in that contract which is not in conflict with a State statute or rule of the Commission or the Secretary. Subject to approval by the Secretary and pending the timely reimbursement of the contractual charges, the area authority or county program may expend funds for costs which may be incurred by the area authority or county

program as a result of providing the additional services under a contractual agreement with a health maintenance organization.

(d) If two or more counties enter into an interlocal agreement under Article 20 of Chapter 160A of the General Statutes to be a public provider of mental health, developmental disabilities, or substance abuse services ("public provider"), before an LME may enter into a contract with the public provider, all of the following must apply:

(1) The public provider must meet all the provider qualifications as defined by rules adopted by the ~~Secretary.~~Commission. A county that satisfies its duties under G.S. 122C-115(a) through a consolidated human services agency may not be considered a qualified provider for purposes of this subdivision.

(2) The LME must adopt a conflict of interest policy that applies to all provider contracts.

(3) The interlocal agreement must provide that any liabilities of the public provider shall be paid from its unobligated surplus funds and that if those funds are not sufficient to satisfy the indebtedness, the remaining indebtedness shall be apportioned to the participating counties.

(e) When enforcing rules adopted by the Commission, ~~The~~ the Secretary shall ensure that there is fair competition among providers. ~~The Department shall study the effect of subsection (d) of this section and shall report its findings and recommendations to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by December 1, 2009.~~"

SECTION 2.4.(b) The Department of Health and Human Services shall study the effect of G.S. 122C-141(d) and shall report its findings and recommendations to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by December 1, 2009.

SECTION 2.5.(a) G.S. 143B-148(a) reads as rewritten:

"§ **143B-148. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – members; selection; quorum; compensation.**

(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of ~~30~~ 32 members, as follows:

(1) ~~Six~~ Eight shall be appointed by the General Assembly, ~~three~~ four upon the recommendation of the Speaker of the House of Representatives, and ~~three~~ four upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. In recommending appointments under this section, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall give consideration to ensuring a balance of appointments that represent those who may have knowledge and expertise in adult issues and those who may have knowledge and expertise in children's issues. Of the ~~three~~ four appointments recommended by the President Pro Tempore of the Senate, one shall be an attorney licensed in this State with preference given to an attorney with experience in the practice of administrative law, one shall be a physician licensed to practice medicine in North Carolina, with preference given to a psychiatrist, and two shall be members of the public. Of the ~~three~~ four appointments recommended by the Speaker of the House of Representatives, one shall be an attorney licensed in this State with

preference given to an attorney with experience in the practice of mental health law, one shall be a physician licensed to practice medicine in North Carolina who has expertise and experience in the field of developmental disabilities, or a professional holding a Ph.D. with experience in the field of developmental disabilities, and two shall be members of the public. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(2) Twenty-four shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and the remainder at-large members.

The Governor's appointees shall represent the following categories of appointment:

a. Three professionals licensed or certified under Chapter 90 or Chapter 90B of the General Statutes who are practicing, teaching, or conducting research in the field of mental health.

b. Four consumers or immediate family members of consumers of mental health services. Of these four, at least one shall be a consumer and at least one shall be an immediate family member of a consumer. No more than two of the consumers or immediate family members shall be selected from nominations submitted by the Coalition 2001 or its successor organization.

c. Two professionals licensed or certified under Chapter 90 or Chapter 90B of the General Statutes who are practicing, teaching, or conducting research in the field of developmental disabilities, and one individual who is a "qualified professional" as that term is defined in G.S. 122C-3(31) who has experience in the field of developmental disabilities.

d. Four consumers or immediate family members of consumers of developmental disabilities services. Of these four, at least one shall be a consumer and at least one shall be an immediate family member of a consumer. No more than two of the consumers or immediate family members shall be selected from nominations submitted by the Coalition 2001 or its successor organization.

e. Two professionals licensed or certified under Chapter 90 of the General Statutes who are practicing, teaching, or conducting research in the field of substance abuse, and one professional who is a certified prevention specialist or who specializes in the area of addiction education.

f. An individual knowledgeable and experienced in the field of controlled substances regulation and enforcement. The controlled substances appointee shall be selected from recommendations made by the Attorney General of North Carolina.

g. A physician licensed to practice medicine in North Carolina who has expertise and experience in the field of substance abuse with preference given to a physician that is certified by the American Society of Addiction Medicine (ASAM).

h. Four consumers or immediate family members of consumers of substance abuse services. Of these four, at least one shall be a consumer and at least one shall be an immediate family member of a consumer. No more than two of the consumers or immediate family members shall be selected from nominations submitted by the Coalition 2001 or its successor organization.

i. ~~A licensed attorney.~~ An attorney licensed in this State. The appointments of professionals licensed or certified under Chapter 90 or Chapter 90B of the General Statutes made in accordance with this subdivision, and physicians appointed in accordance with subdivision (1) of this subsection shall be selected from nominations submitted to the appointing authority by the respective professional associations.

(2a) The terms of all Commission members ~~appointed or reappointed on or after July 1, 2002,~~ shall be three years. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves. A member appointed on and after July 1, 2002, shall not serve more than two consecutive terms.

(3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid."

SECTION 2.5.(b) The appointments of licensed attorneys by the General Assembly in accordance with G.S. 143B-148(a), as amended by this act, shall be for initial terms of two years, and three-year terms thereafter.

SECTION 2.6. The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) shall study the statutory rule-making authority of the Secretary of the Department of Health and Human Services and the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services. In conducting its study, the LOC shall determine whether there is duplication, conflict, or lack of clarity with respect to the Secretary's rule-making authority and that of the Commission. The LOC may also consider whether rule making should be more clearly divided between the Secretary and the Commission and, if so, how and for what reasons. The LOC shall report its findings and recommendations to the 2008 Regular Session of the 2007 General Assembly upon its convening.

SECTION 3. Sections 2.1 through 2.3 and Section 3 of this act become effective October 1, 2007. Sections 1.4 and 2.5 of this act apply to appointments made on and after October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 12:59 p.m. on the 30th day of August, 2007.

Session Law 2007-505 **Senate Bill 1364**

AN ACT TO REQUIRE SECONDARY PURCHASERS OF MOTOR VEHICLES FOR SCRAP METAL OR SALVAGE PARTS TO MAINTAIN RECORDS, AND TO AMEND THE JUNKED MOTOR VEHICLE LAW APPLICABLE TO THE CITY OF MONROE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ **20-62.1. Purchase of vehicles for purposes of scrap or parts only.**

(a) Records for Scrap or Parts. – A secondary metals recycler, as defined in G.S. 66-11(a)(3), and a salvage yard, as defined in G.S. 20-137.7(6), purchasing motor vehicles solely for the purposes of dismantling or wrecking such motor vehicles for the recovery of scrap metal or for the sale of parts only, must comply with the provision of G.S. 20-61, provided, however, that a secondary metals recycler or salvage yard may purchase a motor vehicle without a certificate of title, if the motor vehicle is 10 model years old or older and the secondary metals recycler or salvage yard comply with the following requirements:

(1) Maintain a record of all purchase transactions of motor vehicles. The following information shall be maintained for transactions of motor vehicles:

a. The name and address of the secondary metals recycler or salvage yard.

b. The name, initials, or other identification of the individual entering the information.

c. The date of the transaction.

d. A description of the motor vehicle, including the make and model to the extent practicable.

e. The vehicle identification number (VIN) of the vehicle.

f. The amount of consideration given for the motor vehicle.

g. A written statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the motor vehicle.

h. The name and address of the person from whom the motor vehicle is being purchased.

i. A photocopy or electronic scan of a valid drivers license or identification card issued by the Division of Motor Vehicles of the seller of the motor vehicle, or seller's agent, to the secondary metals recycler or salvage yard, or in lieu thereof, any other identification card containing a photograph of the seller as issued by any state or federal agency of the United States: provided, that if the buyer has a copy of the seller's photo identification on file, the buyer may reference the identification that is on file, without making a separate photocopy for each transaction. If seller has no identification as described in this sub-subdivision, the secondary metals recycler or salvage yard shall not complete the transaction.

(2) Maintain the information required under subdivision (1) of this subsection for not less than two years from the date of the purchase of the motor vehicle.

(b) Inspection of Motor Vehicles and Records. – At any time it appears a secondary metals recycler, salvage yard, or any other person involved in secondary metals operations is open for business, a law enforcement officer shall have the right to inspect the following:

(1) Any and all motor vehicles in the possession of the secondary metals recycler, the salvage yard, or any other person involved in secondary metals operations.

(2) Any records required to be maintained under subsection (a) of this section.

(c) Violations. – Any person who knowingly and willfully violates any of the provisions of this section, or any person who falsifies the statement required under subsection (a)(1)g. of this section, shall be guilty of a Class 1 misdemeanor for a first offense. A second or subsequent violation of this section is a Class I felony. The court may order a defendant seller under this subsection to make restitution to the secondary metals recycler or salvage yard for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller.

(d) Confiscation of Vehicle or Tools Used in Illegal Sale. – Any motor vehicle used to transport another motor vehicle illegally sold under this section may be seized by law enforcement and is subject to forfeiture by the court, provided, however, that no vehicle used by any person in the transaction of a sale of regulated metals is subject to forfeiture unless it appears that the owner or other person in charge of the motor vehicle is a consenting party or privy to the commission of a crime, and a forfeiture of the vehicle encumbered by a bona fide security interest is subject to the interest of the secured party who had no knowledge of or consented to the act.

Whenever property is forfeited under this subsection by order of the court, the law enforcement agency having custody of the property shall sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds are remitted to the Civil Fines and Forfeitures Fund established pursuant to G.S. 115C-457.1.

(e) Exemptions. – As used in this section, the term "motor vehicle" shall not include motor vehicles which have been mechanically flattened, crushed, baled, or logged and sold for purposes of scrap metal only.

(f) Preemption. – No local government shall enact any local law or ordinance with regards to the regulation of the sale of motor vehicles to secondary metals recyclers or salvage yards."

SECTION 2. G.S. 20-61 reads as rewritten:

"§ **20-61. Owner dismantling or wrecking vehicle to return evidence of registration.**

~~Any~~ Except as permitted under G.S. 20-62.1, any owner dismantling or wrecking any vehicle shall forward to the Division the certificate of title, registration card and other proof of ownership, and the registration plates last issued for such vehicle, unless such plates are to be transferred to another vehicle of the same owner. In that event, the plates shall be retained and preserved by the owner for transfer to such other vehicle. No person, firm or corporation shall dismantle or wreck any motor vehicle without first complying with the requirements of this section. The Commissioner upon receipt of

certificate of title and notice from the owner thereof that a vehicle has been junked or dismantled may cancel and destroy such record of certificate of title."

SECTION 3. G.S. 160A-303.2(a) reads as rewritten:

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

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

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) **(applicable to most localities)** Is more than five years old and appears to be worth less than one hundred dollars ($100.00); [or]

(4) Is more than five years old and appears to be worth less than five hundred dollars ($500.00). This subdivision applies only to the Cities of Belmont, Bessemer City, Cherryville, ~~Gastonia~~Gastonia, Monroe and Mount Holly, and the Towns of Ahoskie, Cramerton, Dallas, Farmville, LaGrange, Mint Hill, Louisburg and Stanley."

SECTION 4. Section 3 of this act is effective when this act becomes law. The remainder of this act becomes effective December 1, 2007 and applies to offenses committed and motor vehicles purchased on or after that date.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 1:00 p.m. on the 30th day of August, 2007.

Session Law 2007-506 **Senate Bill 1485**

AN ACT AMENDING EDUCATION REQUIREMENTS FOR REAL ESTATE APPRAISERS UNDER THE NORTH CAROLINA APPRAISERS ACT, ELIMINATING THE CATEGORY OF LICENSED RESIDENTIAL REAL ESTATE APPRAISER, AND AUTHORIZING THE NORTH CAROLINA APPRAISAL BOARD TO ESTABLISH AND INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93E-1-2.1 reads as rewritten:

"§ **93E-1-2.1. Registration, license, or certificate required of real estate appraisers.**

~~Beginning October 1, 1995, it shall be~~It is unlawful for any person in this State to act as a real estate appraiser, to directly or indirectly engage or assume to engage in the business of real estate appraisal, or to advertise or hold himself or herself out as engaging in or conducting the business of real estate appraisal without first obtaining a

registration, license, or certificate issued by the Appraisal Board under the provisions of this Chapter. It ~~shall also be~~is also unlawful, with regard to any real property where any portion of that property is located within this State, for any person to perform any of the acts listed above without first being registered, licensed, or certified by the Appraisal Board under the provisions of this Chapter."

SECTION 2. G.S. 93E-1-3 reads as rewritten:

"§ **93E-1-3. When registration, license, or certificate not required.**

(a) No trainee registration, license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered ~~trainee, State-licensed or State-certified~~trainee or licensed or certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a ~~State-licensed or State-certified~~licensed or certified real estate appraiser or by a registered trainee under the immediate personal direction of, the ~~State-licensed or State-certified~~licensed or certified real estate appraiser and is reviewed and signed by that ~~State-licensed or State-certified~~licensed or certified appraiser.

(b) Repealed by Session Laws 2001-399, s. 1.

(c) Nothing in this Chapter shall preclude a real estate broker ~~or salesman~~licensed under Chapter 93A of the General Statutes from performing a comparative market analysis as defined in G.S. 93E-1-4, provided the person does not represent himself or herself as being a registered trainee or a ~~State-licensed or State-certified~~licensed or certified real estate appraiser. A real estate broker ~~or salesperson~~ may perform a comparative market analysis for compensation or other valuable consideration only for prospective or actual brokerage clients or for real property involved in an employee relocation program.

(d) Nothing in this Chapter shall abridge, infringe upon, or otherwise restrict the right to use the term "certified ad valorem tax appraiser" or any similar term by persons certified by the Department of Revenue to perform ad valorem tax appraisals, provided that the term is not used in a manner that creates the impression of certification by the State to perform real estate appraisals other than ad valorem tax appraisals.

(e) Nothing in this Chapter shall entitle a registered trainee or a ~~State-licensed or State-certified~~licensed or certified real estate appraiser to appraise real estate for ad valorem tax purposes unless the person has first been certified by the Department of Revenue pursuant to G.S. 105-294.

(f) A trainee registration, license, or certificate is not required under this Chapter for:

(1) Any person, partnership, association, or corporation that performs appraisals of property owned by that person, partnership, association, or corporation for the sole use of that person, partnership, association, or corporation;

(2) Any court-appointed commissioner who conducts an appraisal pursuant to a judicially ordered evaluation of property;

(3) Any person to qualify as an expert witness for court or administrative agency testimony, if otherwise qualified;

(4) A person who appraises standing timber so long as the appraisal does not include a determination of value of any land;

(5) Any person employed by a lender in the performance of appraisals with respect to which federal regulations do not require a licensed or certified appraiser; and

(6) A person who performs ad valorem tax appraisals and is certified by the Department of Revenue under G.S. 105-294 or G.S. 105-296;

however, any person who is registered, licensed, or certified under this Chapter and who performs any of the activities set forth in subdivisions (1) through (5) of this subsection must comply with all of the provisions of this Chapter."

SECTION 3. G.S. 93E-1-3.1 reads as rewritten:

"§ **93E-1-3.1. Prohibited use of title; permissible use of title.**

(a) It shall be unlawful for any person to assume or use the title "registered trainee", ~~"State-licensed~~"licensed real estate appraiser", ~~"State-certified~~"certified real estate appraiser", or any title, designation, or abbreviation likely to create the impression of registration, licensure, or certification as a real estate appraiser, unless the person is registered, licensed, or certified by the Appraisal Board in accordance with the provisions of this Chapter. The Board may adopt for the exclusive use of persons licensed or certified under the provisions of this Chapter, a seal, symbol, or other mark identifying the user as a ~~State-licensed or State-certified~~licensed or certified real estate appraiser.

(b) Any person certified as a real estate appraiser by an appraisal trade organization shall retain the right to use the term "certified" or any similar term in identifying the person to the public, provided that:

(1) In each instance wherein the term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to the term; and

(2) The use of the term does not create the impression of certification by the State.

This subsection does not entitle any person certified only by a trade organization to conduct an appraisal that requires a State registration, license, or certification.

(c) The term "registered trainee", ~~"State-licensed~~"licensed real estate appraiser", ~~"State-certified~~"certified real estate appraiser", or any similar term shall not be used following or immediately in connection with the name of a partnership, association, corporation, or other firm or group, or in a manner that might create the impression of registration, licensure, or certification as a real estate appraiser under this Chapter."

SECTION 4. G.S. 93E-1-4 reads as rewritten:

"§ **93E-1-4. Definitions.**

When used in this Chapter, unless the context otherwise requires, the term:

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion as to the value of identified real estate or specified interests therein performed for compensation or other valuable consideration.

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.

(3) "Appraisal Board" or "Board" means the North Carolina Appraisal Board established under G.S. 93E-1-5.

(4) "Appraisal Foundation" or "Foundation" means The Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(5) "Appraisal report" means any communication, written or oral, of an appraisal.

(6) "Certificate" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for certification as a ~~State-certified~~certified real estate appraiser and bearing a certificate number assigned by the Board.

(7) "Certificate holder" means a person certified by the Board under the provisions of this Chapter.

(7a) "Certified general real estate appraiser" means a person who holds a current, valid certificate as a certified general real estate appraiser issued under the provisions of this Chapter.

(7b) "Certified residential real estate appraiser" means a person who holds a current, valid certificate as a certified residential real estate appraiser issued under the provisions of this Chapter.

~~(7a)~~(7c) "Comparative market analysis" means the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate ~~broker or salesperson.~~broker.

(8) "License" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for licensure as a ~~State-licensed~~licensed real estate appraiser and bearing a license number assigned by the Board.

(8a) "Licensed residential real estate appraiser" means a person who holds a current, valid license as a licensed residential real estate appraiser issued under the provisions of this Chapter.

(9) "Licensee" means a person licensed by the Board under the provisions of this Chapter.

(10) "Real estate" or "real property" means land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.

(11) "Real estate appraiser" or "appraiser" means a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.

(12) "Real estate appraising" means the practice of developing and communicating real estate appraisals.

(13) "Residential real estate" means any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, town house, or cooperative complex, or planned unit development is considered to be residential real estate.

~~(14) "State-certified general real estate appraiser" means a person who holds a current, valid certificate as a State-certified general real estate appraiser issued under the provisions of this Chapter.~~

~~(15) "State-certified residential real estate appraiser" means a person who holds a current, valid certificate as a State-certified residential real estate appraiser issued under the provisions of this Chapter.~~

~~(16) "State-licensed residential real estate appraiser" means a person who holds a current, valid license as a State-licensed residential real estate appraiser issued under the provisions of this Chapter.~~

(17) "Temporary appraiser licensure or certification" means the issuance of a temporary license or certificate by the Board to a person licensed or certified in another state who enters this State for the purpose of completing a particular appraisal assignment.

(18) "Trainee", "registered trainee", or "trainee real estate appraiser" means a person who holds a current, valid registration as a trainee real estate appraiser issued under the provisions of this Chapter.

(19) "Trainee registration" or "registration as a trainee" means the document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements of registration as a trainee real estate appraiser and bearing a registration number assigned by the Board."

SECTION 5. G.S. 93E-1-6 reads as rewritten:

"§ **93E-1-6. Qualifications for ~~State~~ registration, licensure, and certification; applications; application fees; examinations.**

(a) Any person desiring to be registered as a trainee or to obtain licensure as a ~~State-licensed~~licensed real estate appraiser or certification as a ~~State-certified~~certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration, licensure, or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for registration as a trainee must demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property, by having satisfactorily completed within the five-year period immediately preceding the date application is made, a course ~~approved by the Board of instruction~~of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 90 hours ~~or the minimum requirement as imposed by the federal government, whichever is greater,~~ of classroom instruction in subjects determined by the Board; and by satisfying any additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the ~~federal government.~~Appraisal Foundation.

(1a) Each applicant for licensure as a ~~State-licensed~~licensed residential real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed within the five-year period immediately preceding the date application is made a course ~~approved by the Board of instruction~~of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least ~~90~~ 150 hours ~~or the minimum requirement as imposed by the federal government, whichever is greater,~~ of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the

Board of at least 2,000 hours or the minimum requirement as imposed by the ~~federal government,~~Appraisal Foundation, whichever is greater, of experience in real estate appraising; and shall satisfy the additional qualifications as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the ~~federal government;~~Appraisal Foundation; or shall possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.

(2) Each applicant for certification as a ~~State-certified~~certified residential real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of real property as the Board may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date the application is made, a course ~~approved by the Board of instruction~~of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least ~~120~~ 200 hours, or the minimum requirement as imposed by the ~~federal government,~~Appraisal Foundation, whichever is greater, of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least 2,500 hours, or the minimum requirement as imposed by the ~~federal government,~~Appraisal Foundation, whichever is greater, of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two calendar years; and shall satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the ~~federal government;~~Appraisal Foundation; or shall possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

(3) Each applicant for certification as a ~~State-certified~~certified general real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of all types of real property by having satisfactorily completed, within the five-year period immediately preceding the date application is made, a course ~~approved by the Board of instruction~~of instruction, approved by the Board, in general real estate appraisal practices consisting of at least ~~180 hours~~ 300 hours, or the minimum requirement as imposed by the ~~federal government,~~Appraisal Foundation, whichever is greater, of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least 3,000 hours or the minimum requirement as imposed by the ~~federal government,~~Appraisal Foundation, whichever is greater, of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two and one-half calendar years, fifty percent (50%) of which must be in appraising nonresidential real estate; and shall satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the ~~federal government;~~Appraisal Foundation; or the applicant shall possess

education or experience which is found by the Board in its discretion to be equivalent to the above requirements.

(4) Repealed by Session Laws 2001-399, s. 1.

(b) Each application for registration as a trainee or for ~~State~~ licensure or certification as a real estate appraiser shall be accompanied by a fee of ~~one hundred fifty dollars ($150.00),~~two hundred dollars ($200.00), plus any additional fee as may be necessary to defray the cost of any competency examination administered by a private testing service.

(c) Any person who files with the Board an application for ~~State~~ registration, licensure, or certification as a real estate appraiser shall be required to pass an examination to demonstrate the person's competence. The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of the reports. In addition, the Board may investigate and consider whether the applicant has had any disciplinary action taken against any other professional license in North Carolina or any other state, or if the applicant has committed or done any act which, if committed or done by any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth for disciplinary action including the suspension or revocation of registration, licensure, or certification, or whether the applicant has been convicted of or pleaded guilty to any criminal act. If the results of the investigation shall be satisfactory to the Board, and the applicant is otherwise qualified, then the Board shall issue to the applicant a trainee registration, license or certificate authorizing the applicant to act as a registered trainee real estate appraiser, ~~State-licensed~~licensed real estate appraiser, or a ~~State-certified~~certified real estate appraiser in this State.

(d) If the applicant has not affirmatively demonstrated that the applicant meets the requirements for registration, licensure, or certification, action on the application will be deferred pending a hearing before the Board."

SECTION 6. Effective January 1, 2008, G.S. 93E-1-6, as amended by Section 5 of this act, reads as rewritten:

"§ **93E-1-6. Qualifications for registration and certification; applications; application fees; examinations.**

(a) Any person desiring to be registered as a trainee or to obtain certification as a certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for registration as a trainee ~~must~~shall:

a. Have obtained a high school diploma or its equivalent; and

b. ~~demonstrate~~ Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property, ~~by~~ by: (i) having satisfactorily completed within the five-year period immediately preceding the date application is made, a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Board; and ~~by~~ (ii) satisfying any

additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the Appraisal Foundation.

~~(1a) Each applicant for licensure as a licensed residential real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed within the five-year period immediately preceding the date application is made a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 150 hours of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least 2,000 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising; and shall satisfy the additional qualifications as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or shall possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.~~

(2) Each applicant for certification as a certified residential real estate appraiser ~~shall have demonstrated~~ shall:

a. Hold an associate's degree or higher from an accredited college, junior college, community college, or university; or have a high school diploma or its equivalent and have successfully completed at least 21 semester credit hours of college courses from an accredited college, junior college, community college, or university in English composition, principles of economics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law;

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of real property as the Board may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date the application is made, a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 200 ~~hours, or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of classroom instruction in subjects determined by the Board;shall present~~hours;

c. Present evidence satisfactory to the Board of at least 2,500 hours, or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two calendar years; and ~~shall satisfy~~

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. ~~shall possess~~Possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

(3) Each applicant for certification as a certified general real estate appraiser ~~shall have demonstrated~~shall:

a. Hold a bachelor's degree or higher from an accredited college or university; or have a high school diploma or its equivalent and have successfully completed at least 30 semester credit hours of college courses from an accredited college or university in English composition, macroeconomics and microeconomics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law and two elective courses in accounting, geography, business management, or real estate;

b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of all types of real property by having satisfactorily completed, within the five-year period immediately preceding the date application is made, a course of instruction, approved by the Board, in general real estate appraisal practices consisting of at least 300 ~~hours, or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of classroom instruction in subjects determined by the Board; shall present~~hours;

c. Present evidence satisfactory to the Board of at least 3,000 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two and one-half calendar years, fifty percent (50%) of which must be in appraising nonresidential real estate; and ~~shall satisfy~~

d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

e. ~~the applicant shall possess~~Possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.

(4) Repealed by Session Laws 2001-399, s. 1.

(b) Each application for registration as a trainee or for ~~licensure or~~ certification as a real estate appraiser shall be accompanied by a fee of two hundred dollars ($200.00), plus any additional fee as may be necessary to defray the cost of any competency examination administered by a private testing service.

(c) Any person who files with the Board an application for State ~~registration, licensure,~~registration or certification as a real estate appraiser shall be required to pass an examination to demonstrate the person's competence. The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Applicants are required to pay the designated

reporting service for the cost of the reports. In addition, the Board may investigate and consider whether the applicant has had any disciplinary action taken against any other professional license in North Carolina or any other state, or if the applicant has committed or done any act which, if committed or done by any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth for disciplinary action including the suspension or revocation of registration, licensure, or certification, or whether the applicant has been convicted of or pleaded guilty to any criminal act. If the results of the investigation shall be satisfactory to the Board, and the applicant is otherwise qualified, then the Board shall issue to the applicant a trainee ~~registration, license~~registration or certificate authorizing the applicant to act as a registered trainee real estate ~~appraiser, State-licensed real estate appraiser, or a State-certified~~appraiser or certified real estate appraiser in this State.

(d) If the applicant has not affirmatively demonstrated that the applicant meets the requirements for ~~registration, licensure,~~registration or certification, action on the application will be deferred pending a hearing before the Board."

SECTION 7. G.S. 93E-1-6.1 reads as rewritten:

"§ **93E-1-6.1. Trainee supervision.**

All trainees shall perform all real estate appraisal-related activities under the immediate, active, and personal supervision of a ~~State-licensed or State-certified~~licensed or certified real estate appraiser. All appraisal reports must be signed by the ~~State-licensed or State-certified~~ appraiser who supervised the trainee. By signing the appraisal report, the ~~State-licensed or State-certified~~ appraiser accepts shared responsibility, with the trainee, for the content of and conclusions in the report."

SECTION 8. G.S. 93E-1-7 reads as rewritten:

"§ **93E-1-7. Registration, license and certificate renewal; renewal fees; continuing education; reinstatement; replacement registrations, licenses and certificates; registration, licensure, and certification history; address changes.**

(a) Trainee registrations, licenses, and certificates issued under this Chapter shall expire on the 30th day of June of every year and shall become invalid after that date unless renewed prior to the expiration date by filing an application with and paying to the Executive Director of the Board the fee of two hundred dollars ($200.00). As a prerequisite to the renewal of a trainee registration or a real estate appraiser license or certificate, the trainee registration holder, the licensee, or the certificate holder must satisfy any continuing education requirements that may be prescribed by the Board under subsection (b) of this section. The members of the General Assembly are exempt from this requirement and any education program regarding trainee supervision during their term of office. The Board may adopt rules establishing a system of trainee registration, license, and certificate renewal in which trainee registrations, licenses, and certificates expire annually with varying expiration dates.

(b) The Board may by rule require, as a prerequisite to trainee registration, license, or certificate renewal, the completion of Board-approved education courses in subject matters determined by the Board, or courses determined by the Board to be equivalent to the instruction, not inconsistent with any requirements of federal authorities.

(b1) Course sponsors shall pay to the Board a fee of five dollars ($5.00) for each licensee completing an approved continuing education course conducted by the sponsor.

(b2) The Board shall not charge a course application fee, a course renewal fee, or any other fee for a continuing education course offered by a North Carolina college,

university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools or an agency of the federal, State, or local government.

(c) All trainee registrations, licenses, and certificates reinstated after the expiration dates shall be subject to a late filing fee of ~~five dollars ($5.00)~~ten dollars ($10.00) per month for each month or part thereof that the trainee registration, license, or certificate is lapsed, not to exceed ~~sixty dollars ($60.00).~~one hundred twenty dollars ($120.00). The late filing fee shall be in addition to the required renewal fee. In the event a trainee, licensee, or certificate holder fails to reinstate the trainee registration, license, or certificate within 12 months after the expiration date thereof, the Board may, in its discretion, consider the person as not having been previously registered, licensed, or certified, and thereby subject to the provisions of this Chapter relating to the issuance of an original trainee registration, license, or certificate, including the examination requirements set forth herein. Applications to reinstate trainee registrations, licenses, or certificates expired for 12 or more months shall be accompanied by the fee required for an original trainee registration, license, or certificate.

(d) Replacement trainee registrations, licenses, and certificates may be issued by the Board upon payment of ~~five dollars ($5.00)~~ten dollars ($10.00) by the trainee, licensee, or certificate holder. Certification by the Board of the trainee registration history or the licensure or certification history of a person registered, licensed, or certified under this Chapter shall be made only after the payment of a fee of ten dollars ($10.00) to the Board."

SECTION 9. G.S. 93E-1-8 reads as rewritten:

"§ **93E-1-8. Education program approval and fees.**

(a) The Board may by rule prescribe minimum standards for the approval and renewal of approval of schools and other course sponsors and their instructors to conduct appraiser prelicensing and precertification courses required by G.S. 93E-1-6(a). Such standards may address subject matter, program structuring, instructional materials, requirements for satisfactory course completion, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest. The standards may require that schools and course sponsors obtain approval for the content of prelicensing and precertification courses from the Appraiser Qualifications Board of the Appraisal Foundation as part of the application process with the Appraisal Board and pay any fees directly to the Appraiser Qualifications Board as required by the Appraiser Qualifications Board for the approval.

(b) The Board may by rule set nonrefundable fees chargeable to private real estate appraisal schools or course sponsors, including appraisal trade organizations, for the approval and annual renewal of approval of their prelicensing and precertification courses required by G.S. 93E-1-6(a), or equivalent courses. ~~Such~~ The fees shall be ~~forty dollars ($40.00)~~one hundred dollars ($100.00) per course for approval and ~~twenty dollars ($20.00) per course for renewal of approval of private school courses, and three hundred dollars ($300.00) per course for approval and~~ fifty dollars ($50.00) per course for renewal of ~~approval for course sponsors, including appraisal trade organizations.~~approval. No fees shall be charged for the approval or renewal of approval to conduct appraiser prelicensing or precertification courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or an agency of the federal, State, or local government.

(c) The Board may by rule prescribe minimum standards for the approval and annual renewal of approval of schools and other course sponsors and their instructors to conduct appraiser continuing education courses. Such standards may address subject matter, instructional materials, requirements for satisfactory course completion, minimum course length, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest.

(d) Nonrefundable fees of one hundred dollars ($100.00) per course may be charged to schools and course sponsors for the approval to conduct appraiser continuing education courses and fifty dollars ($50.00) per course for renewal of approval. However, no fees shall be charged for the approval or renewal of approval to conduct appraiser continuing education courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or by an agency of the federal, State, or local government. A nonrefundable fee of fifty dollars ($50.00) per course may be charged to current or former licensees or certificate holders requesting approval by the Board of a course for continuing education credit when approval of such course has not been previously obtained by the offering school or course sponsor."

SECTION 10. G.S. 93E-1-12(a) reads as rewritten:

"(a) The Board may take disciplinary action against registered trainees and State-licensed or State-certified real estate appraisers. Upon its own motion or the complaint of any person, the Board may investigate the actions of any person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter, any person who performs appraisals without an appropriate registration, license, or certificate, or any person who holds himself or herself out to be registered as a trainee or licensed or certified as a real estate appraiser when the person holds no registration, license, or certificate. If the Board finds probable cause to believe that a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter has violated any of the provisions of this Chapter, the Board may hold a hearing on the allegations of misconduct.

The Board may suspend or revoke the registration, license, or certificate granted to any person under the provisions of this Chapter or reprimand any registered trainee, licensee, or certificate holder if, following a hearing or by consent, the Board finds the registered trainee, licensee, or certificate holder to have:

(1) Procured registration, licensure, or certification pursuant to this Chapter by making a false or fraudulent representation;

(2) Made any willful or negligent misrepresentation or any willful or negligent omission of material fact;

(3) Accepted an appraisal assignment when the employment is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or when the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon consequences resulting from the appraisal assignment;

(4) Acted or held himself or herself out as a registered trainee or a ~~State-licensed or State-certified~~licensed or certified real estate appraiser when not so registered, licensed, or certified;

(5) Failed as a ~~State-licensed or State-certified~~licensed or certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Chapter who assists the ~~State-licensed~~

~~or State-certified~~licensed or certified real estate appraiser in performing real estate appraisals;

(6) Failed to make available to the Board for its inspection without prior notice, originals or true copies of all written contracts engaging the person's services to appraise real property, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports;

(7) Paid a fee or valuable consideration to any person for acts or services performed in violation of this Chapter;

(8) Acted as a real estate appraiser in an unworthy or incompetent manner as to endanger the interest of the public;

(9) Violated any of the standards of practice for real estate appraisers or any other rule promulgated by the Board;

(10) Performed any other act which constitutes improper, fraudulent, or other dishonest conduct; or

(11) Violated any of the provisions of this Chapter.

The Executive Director of the Board shall transmit a certified copy of all final orders of the Board suspending or revoking registrations, licenses, or certificates issued under this Chapter to the clerk of superior court of the county in which the licensee or certificate holder maintains the person's principal place of business. The clerk shall enter these orders upon the judgment docket of the county."

SECTION 11. G.S. 93E-1-12(c) reads as rewritten:

"(c) When a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter is accused of any act, omission, or misconduct which would subject the person to disciplinary action, the registered trainee, licensee, or certificate holder, with the consent and approval of the Board, may surrender his or her registration, license, or certificate and all the rights and privileges pertaining to it for a period of time established by the ~~Board.~~Board of at least five years. A person who surrenders his or her registration, license, or certificate shall not thereafter be eligible for or submit any application for registration, licensure, or certification as a real estate appraiser during the period that the registration, license, or certificate is surrendered."

SECTION 12. After January 1, 2008, the North Carolina Appraisal Board will no longer issue a license for a licensed residential real estate appraiser. Any individual holding a license as a licensed residential real estate appraiser on that date shall be allowed to maintain the license so long as it is properly renewed in accordance with G.S. 93E-1-7.

SECTION 13. Section 6 of this act becomes effective January 1, 2008, and applies to any person applying under this section on or after that date. The remainder of this act becomes effective October 1, 2007, and applies to applicants for registration, licensure, or certification under this act and to persons whose registration, license, or certification is renewed under this act on or after October 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 1:04 p.m. on the 30th day of August, 2007.

Session Law 2007-507 **Senate Bill 1527**

AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS RELATING TO LICENSING OF INSURANCE PRODUCERS AND BAIL BONDSMEN; TO MAKE CHANGES IN THE FEE STRUCTURES FOR AGENTS AND ADJUSTERS; TO AUTHORIZE THE OUTSOURCING OF CERTAIN FUNCTIONS RELATING TO THE ADMINISTRATION OF CONTINUING EDUCATION AND ADMINISTRATIVE PROGRAMS; TO REQUIRE THE DEPARTMENT OF INSURANCE TO STUDY ISSUES RELATED TO LIFE INSURANCE BENEFICIARY NOTIFICATION; TO EXEMPT INSURERS FROM AUTOMATIC RENEWAL DISCLOSURE CLAUSE REQUIREMENTS; TO INSTITUTE A METHOD OF STREAMLINING CERTAIN APPEALS OF DISPUTES BETWEEN LOCAL INSPECTORS AND PERSONS SUBJECT TO THE STATE BUILDING CODE AND TO REQUIRE THE DEPARTMENT OF INSURANCE TO ISSUE ITS DECISION ON THESE LIMITED APPEALS WITHIN TEN BUSINESS DAYS; AND TO MAKE OTHER SUBSTANTIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-26 reads as rewritten:

"§ **58-33-26. General license requirements.**

(a) No person shall act as or hold himself or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

(b) No agent, broker, or limited representative shall make application for, procure, negotiate for, or place for others, any policies for any kinds of insurance as to which that person is not then qualified and duly licensed.

(c) Effective for new licenses issued before January 1, 2008, an~~An~~ agent or broker may be licensed for the following kinds of insurance:

(1) Life and health insurance, meaning:
   a. Life-insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.
   b. Variable life and variable annuity products-insurance coverage provided under variable life insurance contracts and variable annuities.
   c. Accident and health or sickness-insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(2) Property and liability insurance, meaning:
   a. Coverage for the direct or consequential loss or damage to property of every kind.
   b. Coverage against legal liability, including that for death, injury, or disability or damage to real or personal property.

(3) Personal lines, meaning property and liability insurance coverage sold to individuals and families for primarily noncommercial purposes.

(4) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.

These lines of authority shall remain applicable for holders of these licenses until the Commissioner provides applicable replacement licenses under the new lines that will go into effect for new licenses on January 1, 2008. Replacement licenses shall grant authority comparable to the licenses being replaced.

(c1) Effective for licenses issued on or after January 1, 2008, an agent or broker may be licensed for the following kinds of insurance:

(1) Accident and health or sickness. – Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(2) Casualty. – Insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property.

(3) Limited line insurance.

(4) Life. – Insurance coverage on human lives, including benefits in the event of death or dismemberment by accident and benefits for disability income.

(5) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.

(6) Personal lines. – Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Property. – Insurance coverage for the direct or consequential loss or damage to property of every kind.

(8) Variable life and variable annuity products. – Insurance coverage provided under variable life insurance contracts and variable annuities.

(9) Any other kind of insurance permitted under State laws or administrative rules.

(d) ~~A property and liability insurance license does not authorize an agent to sell accident and health insurance. An agent must hold a life and health insurance license to sell accident and health insurance.~~A person holding a license or licenses for the kind or kinds of insurance specified in subsection (c1) of this section may sell, solicit, or negotiate only the kind or kinds of insurance for which that person is licensed.

(e) A ~~life and health insurance~~ variable life and variable annuity products license authorizes a resident agent to ~~sell~~ sell, solicit, or negotiate variable contracts if the agent satisfies the Commissioner that the agent has met the National Association of Securities Dealers requirements of the Secretary of State of North Carolina.

(f) ~~A life and health insurance~~ An accident and health or sickness license authorizes a resident agent to ~~sell~~ sell, solicit, or negotiate Medicare supplement and long-term care insurance policies as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee takes and passes a supplemental written examination for the insurance as provided in G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-125(c).

(g) ~~A limited representative may receive qualification for one or more licenses without examination for the following kinds of insurance:~~

~~(1) Dental services.~~

~~(2) Limited line credit insurance.~~

~~(3) Limited lines insurance.~~

~~(4) Motor club.~~

~~(5) Prearrangement insurance, as defined in G.S. 58-60-35(a)(2), when offered or sold by a preneed sales licensee licensed under Article 13D of Chapter 90 of the General Statutes.~~

~~(6) Travel accident and baggage.~~

~~(7) Vehicle service agreements and mechanical breakdown insurance.~~

The Commissioner may issue one or more licenses without examination to individuals for limited lines insurance per qualifications and application procedures defined in the administrative rules.

(h) No licensed agent, broker, or limited representative shall ~~solicit~~ sell, solicit, or negotiate anywhere in the boundaries of this State, or receive or transmit an application or premium of insurance, for a company not licensed to do business in this State, except as provided in G.S. 58-28-5 and Article 21 of this Chapter.

(i) No agent shall place a policy of insurance with any insurer unless the agent has a current appointment as agent for the insurer in accordance with G.S. 58-33-40 or has a valid temporary license issued in accordance with G.S. 58-33-66.

(j) A business entity that ~~sells, negotiates, or solicits~~ sells, solicits, or negotiates insurance shall be licensed in accordance with G.S. 58-33-31(b). Every member of the partnership and every officer, director, stockholder, and employee of the business entity personally engaged in this State in ~~soliciting or negotiating~~ selling, soliciting, or negotiating policies of insurance shall qualify as an individual licensee. A business entity license shall expire on April 1 of each year unless the business entity pays the renewal fee.

(k) The license shall state the name and ~~social security number, or other~~ an identifying number of the licensee, date of issue, kind or kinds of insurance covered by the license, and any other information as the Commissioner deems to be proper.

(l) A license issued to an agent authorizes him to act until his license is otherwise suspended or revoked. Upon the suspension or revocation of a license, the licensee or any person having possession of such license shall return it to the Commissioner.

(m) A license of a broker, limited representative, adjuster, or motor vehicle damage appraiser shall be renewed on April 1 each year, and renewal fees shall be paid. The Commissioner is not required to print licenses for the purpose of renewing licenses. The Commissioner may establish for licenses "staggered" license renewal dates that will apportion renewals throughout each calendar year. If the system of staggered licensing is adopted, the Commissioner may extend the licensure period for some licensees. License renewal fees prescribed by G.S. 58-33-125 shall be prorated to the extent they are commensurate with extensions.

(n) A license as an insurance producer is not required of the following:

(1) An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this State, except for indirect receipt of proceeds of commissions in the form of salary, benefits, or distributions, and:

a. The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or

b. The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

c. The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass-marketed property and casualty insurance; where no commission is paid to the person for the service.

(3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts.

(4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this State, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this State.

(6) A person who is not a resident of this State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

(8) Licensed insurers authorized to write the kinds of insurance described in G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without the involvement of a licensed agent.

(9) A person indirectly receiving proceeds of commissions as part of the transfer of insurance business or in the form of retirement or similar benefits.

(o) Nothing in this Article requires an insurer to obtain an insurance producer license. In this subsection, "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(p) An individual shall not simultaneously hold an agent's and an adjuster's license in this State. An individual who holds a property and liability insurance license may apply for an adjuster license without having to take the adjuster examination in G.S. 58-33-30(e) if the individual applies for the adjuster license within 60 days after surrendering the property and liability insurance license. An individual who holds an adjuster license may apply for a property and liability insurance license without having to take the property and liability insurance agent examination in G.S. 58-33-30(e) if the individual applies for the property and liability insurance license within 60 days after surrendering the adjuster license."

SECTION 2. G.S. 58-33-10(2) reads as rewritten:

"(2) "Adjuster" means any individual who, for salary, fee, commission, or other compensation of any nature, investigates or reports to his principal relative to claims arising under insurance contracts other than life or annuity. An attorney at law who adjusts insurance losses from time to time incidental to the practice of his profession or an adjuster of marine losses is not deemed to be an adjuster for purposes of this Article. ~~An individual may not simultaneously hold an agent's and an adjuster's license in this State.~~"

SECTION 3. G.S. 58-33-30(d) reads as rewritten:

"(d) Education and Training. –

(1) Each applicant must have had special education, training, or experience of sufficient duration and extent reasonably to satisfy the Commissioner that the applicant possesses the competence necessary to fulfill the responsibilities of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser.

(2) All individual applicants for licensing as ~~life and health agents or as property and liability~~ agents under G.S. 58-33-26(c1)(1), (2), (4), (6), or (7) shall furnish evidence satisfactory to the Commissioner of successful completion of at least ~~40~~ 20 hours of ~~instruction,~~ instruction for each license, which shall in all cases include the general principles of insurance and any other topics relevant to the license that the Commissioner establishes by ~~regulation; and which shall, in the case of life and health insurance applicants, include the principles of life, accident, and health insurance and, in the case of property and liability insurance applicants, shall include instruction in property and liability insurance.~~ administrative rules. Any applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a property or liability or life or health insurance company admitted to do business in this State or a

professional insurance association shall be deemed to have satisfied the educational requirements of this subdivision. ~~The requirement in this subdivision for completion of 40 hours of instruction applies only to applicants for life and health or property and liability insurance licenses.~~

(3) Each resident applicant for a Medicare supplement and long-term care insurance license shall furnish evidence satisfactory to the Commissioner of successful completion of 10 hours of instruction, which shall in all cases include the principles of Medicare supplement and long-term care insurance and federal and North Carolina law relating to such insurance. A resident applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a licensed life or health insurer or a professional insurance association satisfies the educational requirements of this subdivision."

SECTION 4. G.S. 58-33-32(k) reads as rewritten:

"(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. As used in this subsection, "administrative action" includes enforcement action taken against the producer by the National Association of Securities Dealers. This report shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action."

SECTION 5. G.S. 58-33-46(a)(2) reads as rewritten:

"(2) Violating any insurance ~~laws, or~~ law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state's insurance ~~regulator.~~ regulator, or violating any rule of the National Association of Securities Dealers."

SECTION 6. G.S. 58-33-46(a)(6) reads as rewritten:

"(6) Having been convicted of a ~~felony or of~~ felony, a misdemeanor involving ~~dishonesty or~~dishonesty, a breach of ~~trust.~~ trust, or a misdemeanor involving moral turpitude."

SECTION 7. G.S. 58-33-125 reads as rewritten:

"§ **58-33-125. Fees.**

(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster	$75.00
Adjuster, crop hail only	20.00
Agent appointment cancellation (paid by insurer)	10.00
Agent appointment, individual	20.00
~~Agent appointment, nonindividual~~	~~50.00~~
Agent appointment, Medicare supplement and long-term care, individual	10.00
Agent appointment, Medicare supplement and long-term care, nonindividual	20.00
Agent, overseas military	20.00
Broker, nonresident	50.00

Broker, resident.....50.00
Business entity.....100.00
Limited representative.....20.00
Limited representative cancellation (paid by insurer).....10.00
Motor vehicle damage appraiser.....75.00
~~Recertification, continuing education~~.....~~5.00~~
Surplus lines licensee, corporate.....~~50.00~~ 100.00
Surplus lines licensee, individual.....50.00

These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer shall be paid to the Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner. ~~The recertification fee in this subsection shall be paid by persons subject to G.S. 58-33-130 at the time they renew their licenses or appointments under G.S. 58-33-130(c).~~

(b) Whenever a temporary license ~~may be~~ is issued ~~pursuant to~~ under this Article, the fee shall be at the same rate as provided in subsection (a) of this section; and any amounts so paid for a temporary license may be credited against the fee required for an appointment by the sponsoring company.

(c) Any person not registered who is required by law or administrative rule to secure a license shall, upon application for registration, pay to the Commissioner a fee of ~~thirty dollars ($30.00). In the event~~ fifty dollars ($50.00). If additional licensing for other kinds of insurance is requested, a fee of ~~thirty dollars ($30.00)~~ fifty dollars ($50.00) shall be paid to the Commissioner upon application for registration for each additional kind of insurance.

In addition to the fees prescribed by this subsection, any person applying for a supplemental license to sell Medicare supplement and long-term care insurance policies shall pay an additional fee of ~~thirty dollars ($30.00)~~ fifty dollars ($50.00) upon application for registration for those kinds of insurance.

(d) The requirement for an examination, prelicensing education, continuing education, or a registration fee does not apply to agents for domestic farmers' mutual assessment fire insurance companies or associations who solicit and sell only those kinds of insurance specified in G.S. 58-7-75(5)d for such companies or associations.

(e) ~~In the event a license issued under this Article is lost, stolen, or destroyed, the Commissioner may issue a duplicate license upon a written request from the licensee and payment of a fee of five dollars ($5.00).~~ A resident licensee may obtain a duplicate photo-bearing license at times and places within this State that the Commissioner considers necessary and reasonable to serve the convenience of both the Commissioner and the licensee. The Commissioner may contract directly with persons for processing of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for duplicating a photo-bearing license in an amount that offsets the costs to the Department of duplicating the license, including costs associated with any contract entered into pursuant to this subsection.

~~(f) Whenever a printed record of an agent's file is requested, the fee shall be ten dollars ($10.00) for each copy whether or not the agent is currently licensed, previously licensed, or no record of that agent exists.~~

(g) All fees prescribed by this section are nonrefundable."

SECTION 8. G.S. 58-33-130 reads as rewritten:

"§ **58-33-130. Continuing education program for licensees.**

(a) The Commissioner may adopt rules to provide for a program of continuing education requirements for the purpose of enhancing the professional competence and professional responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria for:

(1) The content of continuing education courses;
(2) Accreditation of continuing education sponsors and programs;
(3) Accreditation of videotape or other audiovisual programs;
(4) Computation of credit;
(5) Special cases and exemptions;
(6) General compliance procedures; and
(7) Sanctions for noncompliance.

The Commissioner may contract directly with persons for the administration of the program provided for by this section, and those contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee to course providers to offset the cost of the program, including costs associated with contracts authorized by this subsection. The fee authorized by this subsection shall be in addition to the fees specified in G.S. 58-33-133. As used in this section and in G.S. 58-33-132, "administrator" means any person with whom the Commissioner has contracted under this subsection.

(b) The Commissioner may adopt rules to provide for the continuing professional education of all agents and ~~brokers, including fraternal field marketers, but excluding limited representatives.~~ brokers who are licensed to sell, solicit, and negotiate the kinds of insurance specified in G.S. 58-33-26(c1)(1), (2), (4), (6), (7), or (8). In adopting the rules, the Commissioner may use the same criteria as specified in subsection (a) of this ~~section and shall provide that agents holding more than one license under G.S. 58-33-25(c) are required to complete no more than 18 credit hours per year.~~section.

(c) The license of any person who fails to comply with the continuing education requirements under this section shall ~~lapse. The Commissioner may, for good cause shown, grant extensions of time to licensees to comply with these requirements.~~ lapse except that the Commissioner or administrator may either grant an extension of time for good cause shown or charge an administrative fee of seventy-five dollars ($75.00), or both, in lieu of having the person's license lapse.

(d) ~~Annual~~ Biennial continuing professional education hour requirements shall be determined by the Commissioner, but shall not be more than ~~12~~ 24 credit hours. The Commissioner may by rule establish a staggered system in which the credit hour compliance period is based on the month and year of birth of each individual licensee.

~~(e) No more than seventy-five percent (75%) of the requirement relating to life or health insurance agents or brokers may be met by taking courses offered by licensed life or health insurance companies with which those agents or brokers have appointments.~~

(f) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 678, s. 18, effective July 5, 1994.

~~(g) The Commissioner shall permit any licensee to carry over to a subsequent calendar year up to seventy-five percent (75%) of the required annual hours of continuing professional education.~~

(h) Any licensee who, after obtaining an extension under subsection (c) of this section, offers evidence satisfactory to the Commissioner or administrator that the licensee has satisfactorily completed the required continuing professional education courses is in compliance with this section.

(i) The Commissioner is authorized to approve continuing professional education courses.

(j) Repealed by Session Laws 2002-144, s. 3, as amended by Session Laws 2003-284, s. 22.2, and as amended by Session Laws 2004-124, s. 21.1, effective July 1, 2002.

(k) Repealed by Session Laws 1993, c. 409, s. 4, effective July 1, 1993."

SECTION 9. G.S. 58-33-132 reads as rewritten:

"§ **58-33-132. Qualifications of instructors.**

(a) The Commissioner may adopt rules to establish requisite qualifications for and issuance, renewal, summary suspension, and termination of provider, presenter, and instructor authority for prelicensing and continuing insurance education courses. During any suspension, the instructor shall not engage in any instruction of prelicensing or continuing insurance education courses prior to an administrative review. No person shall provide, present, or instruct any course unless that person has been qualified and possesses a license from the ~~Commissioner.~~ Commissioner or administrator.

(b) The Commissioner or administrator may summarily suspend or terminate the authority of an instructor, course provider, or presenter if the course presentation:

(1) Is determined to be inaccurate; or

(2) Receives an evaluation of poor from any Department monitor and a majority of attendees responding to Department questionnaires about the presentation."

SECTION 10. G.S. 58-33-133 reads as rewritten:

"§ **58-33-133. Continuing education course provider fees.**

(a) Each course provider shall ~~submit~~ pay to the Commissioner a fee of one dollar ($1.00) per approved credit hour per individual who successfully completes a course under G.S. 58-33-130.

(b) At the time a course provider submits an application to the Commissioner for approval of a course under G.S. 58-33-130, the provider shall pay to the Commissioner a filing fee of one hundred dollars ($100.00) per course up to a two thousand five hundred dollars ($2,500) per calendar year maximum.

(b1) Licensees who are required to comply with G.S. 58-33-130 shall pay to the Commissioner a fee of one dollar ($1.00) per credit hour earned. These fees also apply to national designation courses and other courses approved by the Commissioner from other State or federal programs.

(c) Fees collected by the Commissioner under this section and under G.S. 58-33-130 shall be credited to the Insurance Regulatory Fund created under ~~G.S. 58-6-25.~~ G.S. 58-6-25 for the purpose of offsetting the cost of administering the program authorized by G.S. 58-33-130."

SECTION 11. G.S. 58-71-40(d) reads as rewritten:

"(d) When a license is issued under this section, the Commissioner shall issue a picture identification card, of design, size, and content approved by the Commissioner, to the licensee. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license terminates or is terminated shall surrender the identification card to the Commissioner within 10 working days after the termination. The Commissioner may contract directly with persons for the processing and issuance of picture identification cards required by this section and may charge a reasonable fee in addition to the license fee charged under G.S. 58-71-55 in an amount that offsets the cost of the service, including the costs associated with the contract authorized by this subsection. Contracts entered into

pursuant to this subsection shall not be subject to Article 3 of Chapter 143 of the General Statutes."

SECTION 12. G.S. 58-71-115 reads as rewritten:

"§ **58-71-115. Insurers to annually report surety bondsmen; notices of appointments and terminations; information confidential.**

(a) Before July 1 of each year, every insurer shall furnish the Commissioner a list of all surety bondsmen appointed by the insurer to write bail bonds on the insurer's behalf. An insurer who appoints a surety bondsman in the State on or after July 1 of each year ~~must~~ shall notify the Commissioner of the appointment. All appointments are subject to the issuance of the proper license to the appointee under this Article.

(b) An insurer terminating the appointment of a surety bondsman shall file a written notice of the termination with the Commissioner, together with a statement that the insurer has given or mailed notice of the termination to the surety ~~bondsman and to the clerk of superior court of any county in the State in which the insurer has been obligated on bail bonds through the surety bondsman within the past three years.~~ bondsman. The notice to the Commissioner shall state the reasons, if any, for the termination. Information furnished in the notice to the Commissioner shall be privileged and shall not be used as evidence in or basis for any action against the insurer or any of its representatives."

SECTION 13. G.S. 58-71-141 reads as rewritten:

"§ **58-71-141. Appointment of bail bondsmen; affidavit required.**

(a) ~~Prior to~~ Before receiving an appointment, a surety bondsman shall submit to the Commissioner an affidavit, signed under oath, by the surety bondsman and by any former insurer, stating that the surety bondsman does not owe any premium or unsatisfied judgment to any insurer and that the bondsman agrees to discharge all outstanding forfeitures and judgments on bonds previously written. The affidavit shall be in a form prescribed by the ~~Commissioner.~~ Commissioner and shall be submitted by the surety bondsman to the former insurer. If the surety bondsman does not satisfy or discharge all forfeitures or judgments, the former insurer shall submit a notice, with supporting documents, to the appointing insurer, the surety bondsman, and the Commissioner, which states, under oath, that the surety bondsman has failed to satisfy, in a timely manner, the forfeitures and judgments on bonds written by the surety bondsman and that the former insurer has satisfied the forfeiture or judgment from its own funds. The former insurer shall submit the notice and supporting documents to the appointing insurer, the surety bondsman, and the Commissioner within 30 days after the former insurer receives the affidavit from the surety bondsman. Upon receipt of the ~~notification~~ notice and supporting documents, the appointing insurer shall immediately cancel the surety bondsman's appointment. The surety bondsman may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the surety bondsman have been discharged. The appointing insurer or surety bondsman may, within 10 days ~~of the receipt of~~ after receiving the notice and supporting documents from the former insurer, appeal to the Commissioner.

(b) The Commissioner shall adopt rules, including rules regarding the ~~process of~~ procedures for appeals and stays of the requirements of this section, to implement this section.

(c) As used in this section, "former insurer" means the insurer with whom the surety bondsman had a prior appointment and who is responsible for any outstanding bonds written by the surety bondsman."

SECTION 14. G.S. 58-71-165 reads as rewritten:

"§ **58-71-165. Monthly report required.**

(a) Each professional bail bondsman ~~and surety bondsman~~ shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance.

(b) Each insurer that appoints surety bondsmen in this State shall file with the Commissioner a written report in a form adopted by the Commissioner regarding all bail bonds on which the insurer is liable as of the last day of each calendar quarter showing the total dollar amount for which the insurer is liable. The report shall be filed on or before the fifteenth day following the end of each calendar quarter.

(c) The ~~report~~ reports required by subsections (a) and (b) of this section shall be filed on or before the fifteenth day of each month.

(d) Any person who knowingly and willfully falsifies a report required by this section is guilty of a Class I felony."

SECTION 15. G.S. 58-2-69 reads as rewritten:

"§ **58-2-69. Notification of criminal convictions and changes of address; service of ~~notice.~~ notice; contracts for online services, administrative services, or regulatory data systems.**

(a) As used in this section:

(1) "License" includes any license, certificate, registration, or permit issued under this Chapter.

(2) "Licensee" means any person who holds a license.

(b) Every applicant for a license shall inform the Commissioner of the applicant's residential address. Every licensee shall give written notification to the Commissioner of any change of the licensee's residential address within 10 business days after the licensee moves into the licensee's new residence. This requirement applies if the change of residential address is by governmental action and there has been no actual change of residence location; in which case the licensee ~~must~~ shall notify the Commissioner within 10 business days after the effective date of the change. A violation of this subsection is not a ground for revocation, suspension, or nonrenewal of the license or for the imposition of any other penalty by the ~~Commissioner.~~ Commissioner, though a licensee who violates this subsection shall pay an administrative fee of fifty dollars ($50.00) to the Commissioner.

(c) If a licensee is convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction, the licensee shall notify the Commissioner in writing of the conviction within 10 days after the date of the conviction. As used in this subsection, "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere.

(d) Notwithstanding any other provision of law, whenever the Commissioner is authorized or required to give any notice under this Chapter to a licensee, the notice may be given personally or by sending the notice by first-class mail to the licensee at the address that the licensee has provided to the Commissioner under subsection (b) of this section.

(e) The giving of notice by mail under subsection (d) of this section is complete upon the expiration of four days after the deposit of the notice in the post office. Proof of the giving of notice by mail may be made by the certificate of any employee of the Department.

(f) Notification by licensees under subsection (b) of this section may be accomplished by submitting written notification directly to the Commissioner or by using any online services approved by the Commissioner for this purpose.

(g) The Commissioner may contract with the NAIC or other persons for the provision of online services to licensees, for the provision of administrative services to licensees, or for the provision of regulatory data systems to the Commissioner. The NAIC or other person with whom the Commissioner contracts may charge licensees a reasonable fee for the costs associated with the licensees' use of online services and administrative services. The fee shall be agreed to by the Commissioner and the other contracting party and shall be stated in the contract. Contracts for the provision of online services, contracts for the provision of administrative services, and contracts for the provision of regulatory data systems shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General Statutes."

SECTION 16. The North Carolina Commissioner of Insurance shall study and make recommendations to the Joint Legislative Committee on Governmental Operations providing for timely and expeditious confirmation to life insurance beneficiaries by insurers of the beneficiaries' status, the benefits payable, and provision of a claim form. The report shall be submitted no later than April 1, 2008.

SECTION 17. If Senate Bill 527, 2007 Regular Session, becomes law, then G.S. 75-41(d) reads as rewritten:

"(d) This section does not apply to insurers licensed under Chapter 58 of the General Statutes, or to banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or affiliate thereof."

SECTION 18. Article 9 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-140.1. Appeals of alternative design construction and methods.**

Alternative designs and construction shall follow the State Building Code. In the event of a dispute between a local authority having jurisdiction and the designer or owner-representative regarding alternative designs and construction, and notwithstanding any other section within this Article, appeals by the designer or owner-representative on matters pertaining to alternative design construction or methods shall be heard by the Department of Insurance Engineering Division. The Department of Insurance Engineering Division shall issue its decision regarding an appeal filed under this section within 10 business days. The Commissioner of Insurance shall adopt rules in furtherance of this section."

SECTION 19. Section 17 of this act becomes effective October 1, 2007 and applies to life insurance contracts issued or renewed on or after that date. Section 18 of this act is effective when it becomes law and applies to matters pending before the Commissioner of Insurance or the Department of Insurance, on or after that date. The remainder of this act becomes effective January 1, 2008, and applies to fees or charges due, and actions occurring, on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 1:07 p.m. on the 30th day of August, 2007.

Session Law 2007-508 **Senate Bill 1546**

AN ACT TO CLARIFY THE PUBLIC'S ACCESS TO PUBLIC EMPLOYEE PERSONNEL RECORDS AND TO MAKE CHANGES TO THE LAW PERTAINING TO CONFIDENTIALITY OF COMPETITIVE HEALTH CARE INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-320 reads as rewritten:

"§ **115C-320. Certain records open to inspection.**

Each local board of education shall maintain a record of each of its employees, showing the following information with respect to each employee: name, age, date of original employment or appointment, the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its possession, current position, title, current salary, date and amount of most recent increase or decrease in salary, date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and the office or station to which the employee is currently assigned. For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. Subject only to rules and regulations for the safekeeping of records adopted by the local board of education, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. The name of a participant in the Address Confidentiality Program established pursuant to Chapter 15C of the General Statutes shall not be open to inspection and shall be redacted from any record released pursuant to this section. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 2. G.S. 115D-28 reads as rewritten:

"§ **115D-28. Certain records open to inspection.**

Each board of trustees shall maintain a record of each of its employees, showing the following information with respect to each employee: name, age, date of original employment or appointment, the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its possession, current position, title, current salary, date and amount of most recent increase or decrease in salary, date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and the office or station to which the employee is currently assigned. For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. Subject only to rules and regulations for the safekeeping of records adopted by the board of trustees, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 3. G.S. 122C-158(b) reads as rewritten:

"(b) The following information with respect to each employee is a matter of public record: name; age; date of original employment or appointment to the area authority; the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession; current position title; current salary; date and amount of most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. The area authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours, subject only to rules for the safekeeping of public records as the area authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue these orders."

SECTION 4. G.S. 126-23 reads as rewritten:

"§ **126-23. Certain records to be kept by State agencies open to inspection.**

Each department, agency, institution, commission and bureau of the State shall maintain a record of each of its employees, showing the following information with respect to each such employee: name, age, date of original employment or appointment to the State service, the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession, current position, title, current salary, date and amount of most recent increase or decrease in salary, date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and the office or station to which the employee is currently assigned. For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. Subject only to rules and regulations for the safekeeping of the records, adopted by the State Personnel Commission, every person having custody of such records shall permit them to be inspected and examined and copies thereof made by any person during regular business hours. Any person who is denied access to any such record for the purpose of inspecting, examining or copying the same shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 4.5. G.S. 126-22 reads as rewritten:

"§ **126-22. Personnel files not subject to inspection under § 132-6.**

(a) Except as provided in G.S. 126-23 and G.S. 126-24, ~~Personnel~~ personnel files of State ~~employees, former State employees, or applicants for State employment~~ employees shall not be subject to inspection and examination as authorized by G.S. 132-6.

(b) For purposes of this Article ~~a personnel file consists of any information gathered by the department, division, bureau, commission, council, or other agency subject to Article 7 of this Chapter which employs an individual, previously employed an individual, or considered an individual's application for employment, or by the office of State Personnel, and which information relates to the individual's application, selection or nonselection, promotions, demotions, transfers, leave, salary, suspension,~~

~~performance evaluation forms, disciplinary actions, and termination of employment wherever located and in whatever form.~~the following definitions apply:

(1) "Employee" means any current State employee, former State employee, or applicant for State employment.

(2) "Employer" means any State department, university, division, bureau, commission, council, or other agency subject to Article 7 of this Chapter.

(3) "Personnel file" means any employment-related or personal information gathered by an employer, the Retirement Systems Division of the Department of State Treasurer, or by the Office of State Personnel. Employment-related information contained in a personnel file includes information related to an individual's application, selection, promotion, demotion, transfer, leave, salary, contract for employment, benefits, suspension, performance evaluation, disciplinary actions, and termination. Personal information contained in a personnel file includes an individual's home address, social security number, medical history, personal financial data, marital status, dependents, and beneficiaries.

(4) "Record" means the personnel information that each employer is required to maintain in accordance with G.S. 126-23.

(c) Personnel files of former State employees who have been separated from State employment for 10 or more years may be open to inspection and examination except for papers and documents relating to demotions and to disciplinary actions resulting in the dismissal of the ~~employee.~~employee and personnel files maintained by the Retirement Systems Division of the Department of State Treasurer."

SECTION 5. G.S. 130A-45.9(b) reads as rewritten:

"(b) The following information with respect to each employee of a public health authority is a matter of public record: name; age; date of original employment or appointment; beginning and ending dates, position title, position descriptions, and total compensation of current and former positions; the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the authority has the written contract or a record of the oral contract in its possession, and date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification. In addition, the following information with respect to each licensed medical provider employed by or having privileges to practice in a public health facility shall be a matter of public record: educational history and qualifications, date and jurisdiction or original and current licensure; and information relating to medical board certifications or other qualifications of medical specialists. For the purposes of this subsection, the term "total compensation" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity."

SECTION 5.5. G.S. 131E-257.2 reads as rewritten:

"§ **131E-257.2. Privacy of employee personnel records.**

(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files of employees and applicants for employment maintained by a public hospital are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the public hospital with respect to an employee and, by way of illustration but not limitation,

relating to the employee's application, selection or nonselection, performance, promotions, demotions, transfers, suspensions and other disciplinary actions, evaluation forms, employment contracts, leave, salary, and termination of employment. As used in this section, "employee" includes both current and former employees of a public hospital.

(b) The following information with respect to each public hospital employee is a matter of public record:

(1) Name.

(2) Age.

(3) Date of original employment.

(4) Current position ~~title, current salary, and the date and amount of the most recent increase or decrease in salary.~~title.

(5) Date of the most recent promotion, demotion, transfer, suspension, separation or other change in position classification.

(6) The office to which the employee is currently assigned.

In addition, the following information with respect to each licensed medical provider employed by or having privileges to practice in a public hospital shall be a matter of public record: educational history and qualifications, date and jurisdiction or original and current licensure; and information relating to medical board certifications or other qualifications of medical specialists.

(b1) In addition, the following information for the last completed fiscal year, beginning with the fiscal year ending in 2008, of a public hospital with respect to each Covered Officer and the five key employees (who are not Covered Officers) with the highest annual compensation of a public hospital is a matter of public record:

(1) Base salary.

(2) Bonus compensation.

(3) Plan-based incentive compensation.

(4) Dollar value of all other compensation, which includes any perquisites and other personal benefits.

(b2) As used in this section:

(1) "Covered Officer" means each of the following:

a. All individuals serving as the public hospital's chief executive officer or acting in a similar capacity at any time during the last completed fiscal year, regardless of compensation level.

b. The public hospital's four most highly compensated executive officers, determined by the aggregate amount reportable under subdivisions (1) through (4) of subsection (b1) of this section, other than the chief executive officer, who were serving as executive officers at the end of the last completed fiscal year.

c. Any individual for whom disclosure would have been provided pursuant to sub-subdivision b. of this subsection but for the fact that the individual's service as an executive officer of the public hospital terminated during the last completed fiscal year.

(2) "Executive officer" means each employee of the public hospital specifically appointed by the governing board of the public hospital to serve as an officer.

(3) "Key employee" means any person having responsibilities, powers, or influence similar to those of an officer. The term includes the chief management and administrative officials of a public hospital.

(b3) The governing board of a public hospital shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the governing board of the public hospital may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in a public hospital employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

(1) The employee or the employee's duly authorized agent may examine all portions of the employee's personnel file, except letters of reference solicited prior to employment.

(2) A licensed physician designated in writing by the employee may examine the employee's medical record.

(3) A public hospital employee having supervisory authority over the employee may examine all material in the employee's personnel file.

(4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

(5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when the inspection is deemed by the person having custody of the file to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

(6) An employee may sign a written release, to be placed with the employee's personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

(d) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

(1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the public hospital's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.

(2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

(3) Information that might identify an undercover law enforcement officer or a law enforcement informer.

(4) Notes, preliminary drafts, and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(e) The governing board of a public hospital may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that representative certifies that he or she will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the public hospital as long as each personnel file so examined is retained.

(f) The governing board of a public hospital that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his or her file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(g) A public hospital director, trustee, officer, or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a Class 3 misdemeanor; however, conviction under this subsection shall be punishable only by a fine not to exceed five hundred dollars ($500.00).

(h) Any person not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, or remove, or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor; however, conviction under this subsection shall be punishable, in the discretion of the court, by a fine not to exceed five hundred dollars ($500.00)."

SECTION 6. G.S. 153A-98(b) reads as rewritten:

"(b) The following information with respect to each county employee is a matter of public record: name; age; date of original employment or appointment to the county service; the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its possession; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation or other change in position classification; and the office to which the employee is currently assigned. For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. The board of county commissioners shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the board of commissioners may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 7. G.S. 160A-168(b) reads as rewritten:

"(b) The following information with respect to each city employee is a matter of public record: name; age; date of original employment or appointment to the service; the terms of any contract by which the employee is employed whether written or oral,

past and current, to the extent that the city has the written contract or a record of the oral contract in its possession; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. The city council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the city council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 8. G.S. 162A-6.1(b) reads as rewritten:

"(b) The following information with respect to each authority employee is a matter of public record: name; age; date of original employment or appointment to the service; the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the authority has the written contract or a record of the oral contract in its possession; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. The authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 8.5. G.S. 131E-97.3 reads as rewritten:

"§ **131E-97.3. Confidentiality of competitive health care information.**

(a) For the purposes of this section, competitive health care information means ~~Information~~ information relating to competitive health care activities by or on behalf of hospitals and public hospital ~~authorities shall~~ authorities. Competitive health care information shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a public hospital or public hospital authority, as defined in G.S. 159-39, shall be a public record unless otherwise exempted by law, or the contract contains competitive health care information, the determination of which shall be as provided in subsection (b) of this section.

(b) If a public hospital or public hospital authority is requested to disclose any contract which the hospital or hospital authority believes in good faith contains or constitutes competitive health care information, the hospital or hospital authority may either redact the portions of the contract believed to constitute competitive health care information prior to disclosure, or if the entire contract constitutes competitive health care information, refuse disclosure of the contract. The person requesting disclosure of

the contract may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any redacted portion thereof. In any action brought under this subsection, the issue for decision by the court shall be whether the contract, or portions of the contract withheld, constitutes competitive health care information, and in making its determination, the court shall be guided by the procedures and standards applicable to protective orders requested under Rule 26(c)(7) of the Rules of Civil Procedure. For the purposes of this section, competitive health care information includes, but is not limited to, contracts entered into by or on behalf of a public hospital or public hospital authority to purchase a medical practice. Before rendering a decision, the court shall review the contract in camera and hear arguments from the parties. If the court finds that the contract constitutes or contains competitive health care information, the court may either deny disclosure or may make such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

(c) Nothing in this section shall be deemed to prevent an elected public body, in closed session, which has responsibility for the hospital, the Attorney General, or the State Auditor from having access to this confidential information. The disclosure to any public entity does not affect the confidentiality of the information. Members of the public entity shall have a duty not to further disclose the confidential information."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 1:09 p.m. on the 30th day of August, 2007.

Session Law 2007-509 **Senate Bill 301**

AN ACT TO PROVIDE THAT RECORDS OF A CIVIL REVOCATION OF DRIVERS LICENSES SHALL BE EXPUNGED FROM AN INDIVIDUAL'S DRIVING RECORD IF THE UNDERLYING CRIMINAL CHARGE IS EXPUNGED PURSUANT TO ARTICLE 5 OF CHAPTER 15A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-145(c) reads as rewritten:

"(c) The court shall also order that the said misdemeanor ~~conviction~~ conviction, or a civil revocation of a drivers license as the result of a criminal charge, be expunged from the records of the court, and direct all law-enforcement ~~agencies~~ agencies, including the Division of Motor Vehicles, bearing record of the same to expunge their records of the ~~conviction.~~conviction or a civil revocation of a drivers license as the result of a criminal charge. This subsection does not apply to civil or criminal charges based upon the civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The clerk shall forward a certified copy of the order to the Division of Motor Vehicles for the expunction of a civil revocation provided the underlying criminal charge is also expunged. The civil revocation of a drivers license shall not be expunged prior to a final disposition of any pending civil or criminal charge based upon the civil revocation. The sheriff, chief or head of such other arresting agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation

to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation."

SECTION 2. G.S. 15A-146(b) reads as rewritten:

"(b) The court may also order that the said ~~entries~~ entries, including civil revocations of drivers licenses as a result of the underlying charge, shall be expunged from the records of the court, and direct all law-enforcement ~~agencies~~agencies, including the Division of Motor Vehicles, bearing record of the same to expunge their records of the ~~entries.~~entries, including civil revocations of drivers licenses as a result of the underlying charge being expunged. This subsection does not apply to civil or criminal charges based upon the civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The clerk shall forward a certified copy of the order to the Division of Motor Vehicles for the expunction of a civil revocation provided the underlying criminal charge is also expunged. The civil revocation of a drivers license shall not be expunged prior to a final disposition of any pending civil or criminal charge based upon the civil revocation. The sheriff, chief or head of such other arresting agency shall then transmit the copy of the order with the form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation. The costs of expunging these records shall not be taxed against the petitioner."

SECTION 3. The Administrative Office of the Courts, in consultation with the Division of Motor Vehicles, shall develop a system for making a good faith effort to review expungment records, for those offenses expunged pursuant to G.S. 15A-145 and G.S. 15A-146 prior to October 1, 2007, to determine if an expunged offense resulted in a civil revocation. For any expunged offenses that resulted in a civil revocation, the civil revocation shall be reviewed to determine if it should be expunged pursuant to Section 1 or 2 of this act. If the Administrative Office of the Courts determines that a civil revocation should be expunged, it shall expunge the civil revocation from the records of the court and shall notify the Division of Motor Vehicles to expunge any record of the civil revocation.

SECTION 4. Sections 1 and 2 of this act become effective October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 1:10 p.m. on the 30th day of August, 2007.

Session Law 2007-510 **House Bill 1828**

AN ACT TO STRENGTHEN THE MATCHING FUNDS PROVISION OF THE JUDICIAL PUBLIC CAMPAIGN ACT; AND TO APPROPRIATE FUNDS FOR IMPLEMENTATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-278.66 reads as rewritten:

"§ **163-278.66. Reporting requirements.**

(a) Reporting by Noncertified Candidates and Independent Expenditure Entities. – Any noncertified candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24

hours after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for ~~rescue~~ matching funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in support of or opposition to a certified candidate or in support of a candidate opposing a certified ~~candidate~~ candidate, or paying for electioneering communications, referring to one of those candidates, shall report the total funds received, spent, or obligated for those expenditures or payments to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent ~~expenditures,~~ expenditures or electioneering communications exceeds five thousand dollars ($5,000). After this 24-hour filing, the noncertified candidate or ~~independent expenditure~~ other reporting entity shall comply with an expedited reporting schedule by filing additional reports after receiving each additional amount in excess of one thousand dollars ($1,000) or after making or obligating to make each additional expenditure(s) or payment(s) in excess of one thousand dollars ($1,000). The schedule and forms for reports required by this subsection shall be made according to procedures developed by the Board.

(b) Reporting by Participating and Certified Candidates. – Notwithstanding other provisions of law, participating and certified candidates shall report any money received, including all previously unreported qualifying contributions, all campaign expenditures, obligations, and related activities to the Board according to procedures developed by the Board. A certified candidate who ceases to be certified or ceases to be a candidate or who loses an election shall file a final report with the Board and return any unspent revenues received from the Fund. In developing these procedures, the Board shall utilize existing campaign reporting procedures whenever practical.

(c) Timely Access to Reports. – The Board shall ensure prompt public access to the reports received in accordance with this Article. The Board may utilize electronic means of reporting and storing information."

SECTION 1.(b) G.S. 163-278.67 reads as rewritten:

"§ **163-278.67. ~~Rescue~~ Matching funds.**

(a) When ~~Rescue~~ Matching Funds Become Available. – When any report or group of reports shows that "funds in opposition to a certified candidate or in support of an opponent to that candidate" as described in this section, exceed the trigger for ~~rescue~~ matching funds as defined in G.S. 163-278.62(18), the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth in this section. "Funds in opposition to a certified candidate or in support of an opponent to that candidate" shall be equal to the sum of ~~the following:~~ subdivisions (1) and (2) as follows:

~~(1) Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one uncertified opponent of a certified candidate. Where a certified candidate has more than one uncertified opponent, the measure shall be taken from the uncertified candidate showing the highest relevant dollar amount.~~

~~(2) The sum of all expenditures reported in accordance with G.S. 163-278.66 of entities making independent expenditures in opposition to the certified candidate or in support of any opponent of that certified candidate.~~

(1) The greater of the following:

a. Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one nonparticipating candidate who is an opponent of a certified candidate. Where a certified candidate has more than one nonparticipating candidate as an opponent, the measure shall be taken from the nonparticipating candidate showing the highest relevant dollar amount.

b. The funds distributed in accordance with G.S. 163-278.65(b) to a certified opponent of the certified candidate.

(2) The aggregate total of all expenditures and payments reported in accordance with G.S. 163-278.66(a) of entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

(b) Limit on ~~Rescue~~ Matching Funds in Contested Primary. – Total ~~rescue~~ matching funds to a certified candidate in a contested primary shall be limited to an amount equal to two times the maximum qualifying contributions for the office sought.

(c) Limit on ~~Rescue~~ Matching Funds in Contested General Election. – Total ~~rescue~~ matching funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in G.S. 163-278.65(b)(4).

(d) Determinations by Board. – In the case of electioneering communications, the Board shall determine which candidate, if any, is entitled to receive matching funds as a result of the communication. The Board shall issue matching funds based on the communication only if it ascertains that the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. In making its determination, the Board shall not consider evidence external to the communication itself of the intent of the sponsor or the effect of the communication. The Board shall notify each candidate it determines is entitled to receive matching funds based on those communications, the sponsor of those communications, and any candidate who is an opponent of the candidate it determines is entitled to the matching funds. The Board shall give the sponsor of the communication and any opposing candidate an adequate opportunity to rebut the determination of the Board. In considering the rebuttal, all candidates in the race and the sponsor shall be given adequate and equal opportunity to be heard. The Board shall adopt procedures for implementing this subsection, balancing in those procedures adequacy of opportunity to rebut and adequacy and equality of opportunity to be heard on the rebuttal with the need to expedite the decision on awarding matching funds. The Board shall distribute the matching funds, if any, at the conclusion of its process.

(e) Proportional Measuring of Multicandidate Communications. – In calculating the amount of matching funds a certified candidate is eligible to receive under this section, the Board shall include the proportion of expenditures, obligations, or payments for multicandidate communications that pertain to the candidate."

SECTION 1.(c) Chapter 163 of the General Statutes is amended by deleting the term "rescue" wherever it appears and substituting the term "matching."

SECTION 1.(d) G.S. 163-278.62 is amended by adding a new subdivision to read:

"(5a) Electioneering communication. – As defined in G.S. 163-278.80 and G.S. 163-278.90, except that it is made during the period beginning 30 days before absentee ballots become available for a primary and

ending on primary election day and during the period 60 days before absentee ballots become available for a general election and ending on general election day."

SECTION 2. G.S. 163-278.110 is amended by adding a new subdivision to read:

"(8) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article."

SECTION 3.(a) There is appropriated from the General Fund to the State Board of Elections for the 2007-2008 fiscal year the sum of twenty-five thousand dollars ($25,000) for the implementation of this act.

SECTION 3.(b) This section becomes effective July 1, 2007.

SECTION 4. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 1:10 p.m. on the 30th day of August, 2007.

Session Law 2007-511 **Senate Bill 854**

AN ACT AMENDING THE PRIVATE PROTECTIVE SERVICES ACT AND AMENDING THE FIREARMS LAWS AFFECTING ARMED SECURITY GUARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3 reads as rewritten:

"§ **74C-3. Private protective services profession defined.**

(a) As used in this Chapter, the term "private protective services profession" means and includes all of the following:

(1) ~~"Armored car profession" means any~~ Armored car profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration provides secured transportation and protection from one place or point to another place or point of money, currency, coins, bullion, securities, checks, documents, stocks, bonds, jewelry, paintings, and other ~~valuables for a fee or other valuable consideration.~~ valuables. This definition does not include a person operating an armored car business pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such business; however, armed armored car service guards shall be subject to the provisions of G.S. 74C-13.

(2) Repealed by Session Laws 1983, c. 786, s. 2.

(3) ~~"Counterintelligence service profession" means any~~ Electronic countermeasures profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or ~~corporation for a fee or other valuable consideration.~~ corporation.

(4) ~~"Courier service profession" means any~~ Courier service profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration transports or offers to transport from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or other small items of value which require expeditious ~~service for a fee or other valuable consideration.~~ services. Armed courier service guards shall be subject to the provisions of G.S. 74C-13.

(5) ~~"Detection of deception examiner" means any~~ Detection of deception examiner. – Any person, firm, association, or corporation which uses any device or instrument, regardless of its name or design, for the purpose of the detection of deception or any person who reviews the work product of an examiner including charts, tapes or other methods of record keeping for the purpose of detecting deception or determining accuracy.

(6) ~~"Security guard and patrol profession" means any~~ Security guard and patrol profession. – Any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and ~~performing~~ performs one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private ~~property;~~property.

b. Prevention, observation, or detection of any unauthorized activity on private ~~property;~~property.

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security ~~services; or~~services.

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

(7) ~~"Guard-dog service profession" means any~~ Guard dog service profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration contracts with another person, firm, association, or corporation to place, lease, rent, or sell a trained dog for the purpose of protecting lives or ~~property for a fee or other valuable consideration.~~property.

(8) ~~"Private detective" or "private investigator" are synonymous and mean any~~ Private detective or private investigator. – Any person who engages in the profession of or accepts employment to furnish, agrees to make, or makes inquiries or investigations concerning ~~the below-listed topics~~ any of the following on a contractual basis:

a. Crimes or wrongs done or threatened against the United States or any state or territory of the United ~~States;~~States.

b. The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations,

associations, transactions, acts, reputation, or character of any ~~person;~~person.

c. The location, disposition, or recovery of lost or stolen ~~property;~~property.

d. The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to ~~properties;~~properties.

e. Securing evidence to be used before any court, board, officer, or investigative ~~committee; or~~committee.

f. Protection of individuals from serious bodily harm or death.

(9) ~~"Special limited guard and patrol profession" means any~~ Special limited guard and patrol profession. – Any person who is licensed under Chapter 74D of the General Statutes of North Carolina and provides armed alarm responders pursuant to G.S. 74C-13. Applicants for this limited license shall not be required to meet the experience requirements for a security guard and patrol license. Any experience gained under this limited license shall not be counted as experience for a security guard and patrol license.

(b) "Private protective services" shall not ~~mean:~~include any of the following:

(1) Licensed insurance adjusters legally employed as such and who engage in no other investigative activities unconnected with adjustment or claims against an insurance ~~company;~~company.

(2) An officer or employee of the United States, this State, or any political subdivision of either while ~~such~~ the officer or employee is engaged in the performance of his or her official duties within the course and scope of his or her employment with the United States, this State, or any political subdivision of ~~either;~~either.

(3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating or credit worthiness of persons; and a person who provides consumer reports in connection with:

a. Credit transactions involving the consumer on whom the information is to be furnished and involving the extensions of credit to the consumer,

b. Information for employment purposes,

c. Information for the underwriting of insurance involving the consumer,

d. Information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility, or

e. A legitimate business need for the information in connection with a business transaction involving the consumer;

(4) An attorney at law licensed to practice in North Carolina while engaged in ~~such~~ the practice of law and ~~his~~ the attorney's agent, provided ~~said~~ the agent is performing duties only in connection with his or her principal's practice of law;

(5) The legal owner or lien holder, and his or her agents and employees, of personal property which has been sold in a transaction wherein a security interest in personal property has been created to secure the

sales transaction, who engage in repossession of ~~said~~ the personal property;

(6) Repealed by Session Laws 1989, c. 759, s. 3.

(7) Repealed by Session Laws 1981, c. 807, s. 1.

(8) Employees of a licensee who are employed exclusively as undercover agents; provided that for purposes of this section, undercover agent means an individual hired by another person, firm, association, or corporation to perform a job for that person, firm, association, or corporation and, while performing ~~such~~ the job, to act as an undercover operative, employee, or independent contractor of a licensee, but under the supervision of a licensee;

(9) A person who is engaged in an alarm systems business subject to the provisions of Chapter 74D of the General Statutes;

(10) A person who obtains or verifies information regarding applicants for employment, with the knowledge and consent of the applicant, and is (i) engaged in business as a private personnel service as defined in G.S. 95-47.1 or engaged in business as a private employer fee pay personnel service, (ii) engaged in the business of obtaining or verifying information regarding applicants for employment, or (iii) an employer with whom the applicant has applied for employment;

(11) A person who conducts efficiency studies. An efficiency study is an analysis of an employer's business, made at the request of the employer, to determine one or more of the following:

a. The most efficient procedures by which an employee of the business can perform the employee's assigned duties.

b. The adequacy of an employee's performance of the employee's assigned duties that require interaction with a client or customer of the business.

If a person making an efficiency study observes an instance of theft or another illegal act committed by an employee of the business, the person may report the instance to the employer without violating G.S. 74C-3(a)(8).

(12) Research laboratories and consultants who analyze, test, or in any way apply their expertise to interpreting, evaluating, or analyzing facts or evidence submitted by another in order to determine the cause or effect of physical or psychological occurrences, and give their opinions and findings to the requesting source or to a designee of the requestor;

(13) A person who works regularly and exclusively as an employee of an employer in connection with the business affairs of that employer. If the employee is an armed security guard and wears, carries, or possesses a firearm in the performance of ~~his~~ the employee's duties, the provisions of G.S. 74C-13 apply;

(14) An employee of a security department of a private business that conducts investigations exclusively on matters internal to the business affairs of the business; or

(15) Representatives of nonprofit organizations funded all or in part by business improvement districts who provide information and directions to local tourists and residents, engage in street cleaning and beautification services within the business improvement districts, and

notify local law enforcement of any illegal activity observed by the representatives within the business improvement districts."

SECTION 2. G.S. 74C-5 reads as rewritten:

"§ **74C-5. Powers of the Board.**

In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power ~~to:~~to do all of the following:

(1) ~~Promulgate~~ Adopt rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this ~~Chapter;~~Chapter.

(2) Determine minimum qualifications, establish and require written or oral examinations, and establish minimum education, experience, and training standards for applicants and licensees under this ~~Chapter;~~Chapter.

(3) Conduct investigations regarding alleged violations and to make evaluations as may be necessary to determine if licensees and trainees under this Chapter are complying with the provisions of this ~~Chapter;~~Chapter.

(4) Adopt and amend bylaws, consistent with law, for its internal management and ~~control;~~control.

(5) Approve individual applicants to be licensed or registered according to this ~~Chapter;~~Chapter.

(6) Deny, suspend, or revoke any license or trainee permit issued or to be issued under this Chapter to any applicant, licensee, or permit holder who fails to satisfy the requirements of this Chapter or the rules established by the Board. The denial, suspension, or revocation shall be in accordance with Chapter 150B of the General Statutes of North ~~Carolina;~~Carolina.

(7) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. Chapter 5A, Article 2, for acts occurring in matters pending before the Private Protective Services Board which would constitute civil contempt if the acts occurred in an action pending in ~~court;~~court.

(8) Repealed by Session Laws 1989, c. 759, s. 5.

(9) ~~Establish~~ Adopt rules governing detection of deception schools, and charge fees for reimbursement of costs incurred pursuant to approval of ~~such schools; and~~ the schools.

(10) Contract for services as necessary to carry out the functions of the Board.

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed or registered to engage in private protective services. The badge or shield shall be approved by the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police."

SECTION 3. G.S. 74C-9 reads as rewritten:

"§ **74C-9. Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.**

(a) The license when issued shall be in such form as may be determined by the Board and shall state:

(1) The name of the licensee,

(2) The name under which the licensee is to operate, and

(3) The number and expiration date of the license.

(b) The license shall be issued for a term of ~~one year.~~two years. A trainee permit shall be issued for a term of ~~one year.~~two years. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this Chapter is not assignable. The Board may require all licensees to complete continuing education courses approved by the Board before renewal of their licenses.

(c) Repealed by Session Laws 1989, c. 759, s. 7.

(d) The operator or manager of any branch office shall be properly licensed or registered. The license shall be posted at all times in a conspicuous place in the branch office. This license shall be issued for a term of one year. Every business covered under the provisions of this Chapter shall file in writing with the Board the addresses of each of its branch offices, if any, within 10 working days after the establishment, closing, or changing of the location of any branch office. The Director may, upon the successful completion of an investigation of the application, issue a temporary branch office license pending approval of the application by the Board.

(e) The Board is authorized to charge reasonable application and license fees as follows:

(1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars ($150.00);

(2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars ~~($250.00);~~($250.00) per year of the license term;

(3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars ~~($250.00);~~($250.00) per year of the license term;

(4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars ($50.00);

(5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the licensee;

(6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars ($30.00);

(7) An application fee for ~~an armed security guard~~a firearm registration permit not to exceed fifty dollars ($50.00);

(8) A new, renewal, replacement, or reissuance fee for ~~an armed security guard~~a firearm registration permit not to exceed thirty dollars ($30.00);

(9) An application fee for certification as a certified trainer not to exceed fifty dollars ($50.00);

(10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars ($25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars ($100.00);
(12) An unarmed registration transfer fee not to exceed fifteen dollars ($15.00);
(13) A branch office license fee not to exceed fifty dollars ($50.00); and
(14) A special limited guard and patrol license fee not to exceed one hundred dollars ($100.00).

Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expenses of administering this Chapter.

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the Director of intended renewal, the payment of the proper fee, and evidence of a policy of liability insurance as prescribed in G.S. 74C-10(e).

The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

(g) Upon notification of approval of ~~his~~ the application by the Board, an applicant must furnish evidence that ~~he~~ the applicant has obtained the necessary liability insurance required by G.S. 74C-10 and obtain the license applied for or ~~his~~ the application shall lapse.

(h) Trainee permits shall not be issued to applicants that qualify for a private detective license. A licensed private detective may supervise no more than five trainees at any given time."

SECTION 4. G.S. 74C-10(e) reads as rewritten:

"(e) No security guard and patrol, armored car, or special limited guard and patrol license shall be issued under this Chapter unless the applicant files with the Board evidence of a policy of liability insurance. The policy must provide for the following minimum coverage: fifty thousand dollars ($50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars ($20,000) because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency. If the licensee, other than a security guard and patrol, armored car, or special limited guard and patrol licensee, carries a firearm while engaged in private protective services activities, the licensee shall obtain a policy of liability insurance with a minimum coverage as specified above. A licensee is deemed to be 'carrying a firearm' for purposes of this section while engaged in private protective services if the licensee has a firearm on the licensee's person or in the automobile the licensee is using to perform private protective services."

SECTION 5. G.S. 74C-10(h) reads as rewritten:

"(h) Every security guard and patrol licensee, armored car licensee, special limited guard and patrol licensee, or licensee carrying a firearm while engaged in private protective services ~~licensee~~ shall at all times maintain on file with the Board the certificate of insurance required by this Chapter in full force and effect and upon failure to do so, the license of such licensee shall be automatically suspended and shall not be

reinstated until an application therefor, in the form prescribed by the Board, is filed together with a proper insurance certificate.

No cancellation or refusal to renew by an insurer of a licensee under this Chapter shall be effective unless the insurer has given the insured licensee notice of the cancellation or refusal to renew. Upon termination of insurance coverage for said licensee, the insurer shall give notice to the Director of the Board."

SECTION 6. G.S. 74C-11(d) reads as rewritten:

"(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to ~~said~~ the applicant after receipt of the information required to be submitted by ~~his~~ the applicant's employer pursuant to subsection ~~(a),~~(a) of this section, and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed ~~thereto.~~ to the card. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. The Board may require all registration holders to complete continuing education courses approved by the Board before renewal of their registrations. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued."

SECTION 7. G.S. 74C-12 reads as rewritten:

"§ **74C-12. Denial, suspension, or revocation of license, registration, or ~~permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder ~~has:~~has done any of the following acts:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or ~~permit;~~permit.

(2) Violated any provision of this ~~Chapter;~~Chapter.

(3) Violated any rule ~~promulgated~~ adopted by the Board pursuant to the authority contained in this ~~Chapter;~~Chapter.

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a ~~state;~~state.

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this ~~Chapter;~~Chapter.

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the ~~parties;~~parties.

(8) Knowingly made any false report to the employer or client for whom information is being ~~obtained;~~obtained.

(9) Committed an unlawful breaking or entering, assault, battery, or ~~kidnapping;~~kidnapping.

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a ~~licensee;~~licensee.

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he or she is representing any attorney or he or she is appearing or will appear as an attorney in any legal ~~proceeding;~~proceeding.

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court ~~proceeding;~~proceeding.

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this ~~Chapter;~~Chapter.

(15) Violated the firearm provisions set forth in this ~~Chapter;~~Chapter.

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this ~~Chapter;~~Chapter.

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying ~~agent;~~agent.

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under ~~G.S. 122C-271;~~G.S. 122C-271.

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered.

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for ~~cause;~~cause.

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this ~~Chapter;~~Chapter.

(23) Divulged to any person, except as required by law, any information acquired by ~~him~~ the license holder except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or ~~his~~ district attorney's representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the ~~client;~~client.

(24) Fraudulently held himself or herself out as employed by or licensed by the State Bureau of Investigation or any other governmental ~~authority;~~authority.

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this ~~subdivision;~~subdivision.

(26) Advertised or solicited business using a name other than that in which the license was ~~issued;~~issued.

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(28) Possessed or displayed a badge or shield while providing private protective services that was not designed and approved by the Board pursuant to G.S. 74C-5(12).

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person shall file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) A licensee shall report to the Board in writing within 30 days any charge, arrest for, or conviction of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

For purposes of this section, the term 'conviction' includes the entry of a plea of guilty, a plea of nolo contendere, prayer for judgment continued, or a finding of guilt by a court of competent jurisdiction. The licensee's failure to report a charge, arrest for, or conviction of a misdemeanor or felony is grounds for revocation of the license."

SECTION 8. G.S. 74C-13 reads as rewritten:

"§ **74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications ~~as set forth in~~ of this section and

having been issued a firearm registration permit by the Board. ~~For the purposes of this section, the following terms are defined:~~

(a1) The following definitions apply in this section:

(1) Armed private investigator. – A licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

~~(1)~~(1a) ~~"Armed security guard" means an~~ Armed security guard. – An individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service who at any time wears, carries, or possesses a firearm in the performance of duty.

(2) ~~"Contract security company" means any~~ Contract security company. – Any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) ~~"Proprietary security organization" means any~~ Proprietary security organization. – Any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of ~~such~~ the employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or an armed private investigator and knowingly authorize or permit ~~him~~ the armed security guard or armed private investigator to carry a firearm during the course of performing his or her duties as an armed security guard or an armed private investigator if the Board has not issued him or her a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or an armed private investigator to carry a firearm during the course of performing his or her duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) ~~An armed security guard~~ A firearm registration permit grants authority to the armed security guard, or armed private investigator, while in the performance of his or her duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or any other~~any firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his or her duties.

(c) The applicant for ~~an armed security guard~~a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section to an armed security guard shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. ~~An~~

~~armed security guard~~A firearm registration permit issued to an armed security guard expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. The Board may require all permit holders to complete continuing education courses approved by the Board before renewal of their permits.

(d1) Each firearm registration permit issued under this section to an armed private investigator shall be in the form of a pocket card designed by the Board and shall identify the name of the armed private investigator. While carrying a firearm and engaged in private protective services, the armed private investigator shall carry the firearms registration permit issued by the Board, together with valid identification, and shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a firearm, whether concealed or in plain view, when approached or addressed by the law enforcement officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer. A private investigator firearm registration permit expires one year from the date of issuance and shall be renewed annually. The Board may require all permit holders to complete continuing education courses approved by the Board before renewal of their permits.

(e) If ~~the holder of~~ an armed security guard ~~firearm registration permit~~ terminates his or her employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which an armed private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall ~~include~~ include all of the following:

a. Legal limitations on the use of hand guns and on the powers and authority of an armed security ~~guard,~~ guard.
b. Familiarity with this ~~section,~~section.
c. Range firing and procedure and hand gun safety and ~~maintenance, and~~ maintenance.
d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his or her firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.
(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.
(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. The Board may require all certified trainers to complete continuing education courses approved by the Board before renewal of their certifications.

(2) No certified firearms trainer shall certify ~~an armed security guard~~a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his or her duties as a private investigator upon: (i) obtaining a concealed weapon permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private investigator who does not carry a weapon during the course of his or her duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

The Board may require individuals holding a license, registration, certificate, or permit to complete continuing education courses approved by the Board before renewal. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 10. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

~~(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);~~

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000),~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is

needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the ~~industry;~~industry.

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and ~~trainees; and~~trainees.

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 11. G.S. 74C-31(d) reads as rewritten:

"(d) Until ~~such time as~~ the Fund reaches ~~one hundred thousand dollars ($100,000),~~twenty-five thousand dollars ($25,000), or at any time the Fund has insufficient assets in excess of ~~one hundred thousand dollars ($100,000)~~twenty-five thousand dollars ($25,000) to pay outstanding claims, the State Treasurer shall not disburse any payments to an aggrieved party. However, any party aggrieved and awarded payment as ordered by the Board which order is dated after July 1, 1983, shall hold a vested right for payment plus interest as provided in G.S. 24-1 once the Fund reaches a sufficient level for payments. Authorized payments which cannot be made due to the lack of funds will be paid as funds become available, beginning with those payments which have been unsatisfied for the longest period of time."

SECTION 12. G.S. 14-269.2(g) reads as rewritten:

"(g) This section shall not apply ~~to:~~to any of the following:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school ~~authority;~~authority.

(1a) A person exempted by the provisions of G.S. ~~14-269(b);~~14-269(b).

(2) Firefighters, emergency service personnel, and North Carolina Forest Service personnel, and any private police employed by ~~an educational institution,~~ a school, when acting in the discharge of their official ~~duties;~~duties.

(3) Home schools as defined in G.S. ~~115C-563(a); or~~115C-563(a).

(4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property.

(5) A person registered under Chapter 74C of the General Statutes as an armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.

(6) A person registered under Chapter 74C of the General Statutes as an armed security guard while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university."

SECTION 13. Sections 12 and 13 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 1:12 p.m. on the 30th day of August, 2007.

Session Law 2007-512 **House Bill 943**

AN ACT TO REQUIRE THE STATE REGISTRAR TO ASSIST COUNTY JURY COMMISSIONS IN UPDATING THEIR LISTS OF PROSPECTIVE JURORS BY PROVIDING A LIST OF RESIDENTS OF EACH COUNTY WHO HAVE DIED RECENTLY; TO REQUIRE THE STATE REGISTRAR TO PROVIDE THE COMMISSIONER OF MOTOR VEHICLES WITH A LIST OF RESIDENTS OF THE STATE WHO HAVE DIED RECENTLY; AND TO EXCLUDE FROM THE LISTS PROVIDED BY THE COMMISSIONER OF MOTOR VEHICLES TO COUNTY JURY COMMISSIONS THE NAMES OF PERSONS WHOSE DRIVERS LICENSES HAVE BEEN EXPIRED FOR AT LEAST EIGHT YEARS AND WHO HAVE BEEN INACTIVE VOTERS FOR AT LEAST EIGHT YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 9-2(b) reads as rewritten:

"(b) In preparing the list, the jury commission shall use the list of registered voters and persons with drivers license records supplied to the county by the Commissioner of Motor Vehicles pursuant to G.S. 20-43.4. The commission shall remove from the list the names of those residents of the county who are recently deceased, which shall be supplied to the commission by the State Registrar under G.S. 130A-121(a). The commission may use fewer than all the names from the list if it uses a random method of selection. The commission may use other sources of names deemed by it to be reliable."

SECTION 2. Article 4 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-121. List of deceased residents for county jury commission and Commissioner of Motor Vehicles.**

(a) The State Registrar shall provide to each county's jury commission an alphabetical list of all residents of that county who have died in the two years prior to July 1 of each odd-numbered year, unless an annual jury list is being prepared under G.S. 9-2(a), in which case the list shall be of all residents of the county who have died in the year prior to July 1 of each year. The list shall include the name and address of each deceased resident and may be in either printed or computerized form, as requested by the jury commission.

(b) The State Registrar shall provide to the Commissioner of Motor Vehicles an alphabetical list of all residents of the State who have died in the two years prior to July 1 of each odd-numbered year, unless an annual jury list is being prepared under G.S. 9-2(a), in which case the list shall be of all residents of the State who have died in the year prior to July 1 of each year. The list shall include the name and address of each deceased resident and may be in either printed or computerized form, as requested by the Commissioner of Motor Vehicles."

SECTION 3. G.S. 20-43.4 reads as rewritten:

"§ **20-43.4. Current list of licensed drivers to be provided to jury commissions.**

The Commissioner of Motor Vehicles shall provide to each county jury commission an alphabetical list of all persons that the Commissioner has determined are residents of the county, who will be 18 years of age or older as of the first day of January of the following year, and licensed to drive a motor vehicle as of July 1 of each odd-numbered year, provided that if an annual jury list is being prepared under G.S. 9-2(a), the list to be provided to the county jury commission shall be updated and provided annually. The list shall include those persons whose license to drive has been suspended, and those former licensees whose license has been ~~canceled.~~canceled, except that the list shall not include the name of any formerly licensed driver whose license is expired and has not been renewed for eight years or more. The list shall contain the address and zip code of each driver, plus the driver's date of birth, sex, social security number, and drivers license number, and may be in either printed or computerized form, as requested by each county. Before providing the list to the county jury commission, the Commissioner shall have computer-matched the list with the voter registration list of the State Board of Elections to eliminate duplicates. The Commissioner shall also remove from the list the names of those residents of the county who are recently deceased, which shall be supplied to the Commissioner by the State Registrar under G.S. 130A-121(b). The Commissioner shall include in the list provided to the county jury commission names of registered voters who do not have drivers licenses, and shall indicate the licensed or formerly licensed drivers who are also registered voters, the licensed or formerly licensed drivers who are not registered voters, and the registered voters who are not licensed or formerly licensed drivers. The list so provided shall be used solely for jury selection and election records purposes and no other. Information provided by the Commissioner to county jury commissions and the State Board of Elections under this section shall remain confidential, shall continue to be subject to the disclosure restriction provisions of G.S. 20-43.1, and shall not be a public record for purposes of Chapter 132 of the General Statutes."

SECTION 4. G.S. 163-82.11(e) reads as rewritten:

"(e) Cooperation on List for Jury Commission. – The State Board of Elections shall assist the Division of Motor Vehicles in providing to the county jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records. The list of registered voters provided by the State Board of Elections shall not include any registered voter who has been inactive for eight years or more."

SECTION 5. G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, and amendments to that law.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

(1) For the purpose of administering the drivers license laws.

(2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.

(3) To the Department of Revenue for the purpose of verifying taxpayer identity.

(4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.

(5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists."

SECTION 6. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 1:12 p.m. on the 30th day of August, 2007.

Session Law 2007-513 **Senate Bill 1351**

AN ACT TO CLARIFY MOTOR VEHICLE FRANCHISE LAWS AS THEY RELATE TO AUTOMOBILE DEALER WARRANTY OBLIGATIONS, CIVIL ACTIONS FOR VIOLATIONS, COERCION, AND INSTALLMENT SALES; AND TO REQUIRE THAT FAIR COMPENSATION BE PAID TO FRANCHISED MOTOR VEHICLE DEALERS TERMINATED AS A RESULT OF INDUSTRY REORGANIZATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-303 reads as rewritten:

"§ **20-303. Installment sales to be evidenced by written instrument; statement to be delivered to buyer.**

(a) Every retail installment sale shall be evidenced by ~~an instrument~~ one or more instruments in writing, which shall contain all the agreements of the parties and shall be signed by the buyer.

(b) For every retail installment sale, ~~Prior~~ prior to or about the time of the delivery of the motor vehicle, the seller shall deliver to the buyer a written statement describing clearly the motor vehicle sold to the buyer, the cash sale price thereof, the cash paid down by the buyer, the amount credited the buyer for any trade-in and a description of the motor vehicle traded, the amount of the finance charge, the amount of any other charge specifying its purpose, the net balance due from the buyer, the terms of the payment of such net balance and a summary of any insurance protection to be effected. The written statement shall be signed by the buyer."

SECTION 2. G.S. 20-305(4) reads as rewritten:

"(4) Notwithstanding the terms of any franchise agreement, to prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, or relocation of the dealership to another site within the dealership's relevant market area, if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed transfer, sale, assignment, relocation, or change, and after a hearing on the matter, that the failure to permit or honor the transfer, sale, assignment, relocation, or change is unreasonable under the circumstances. No franchise may be transferred, sold, assigned, relocated, or the executive management or principal operators changed, unless the franchisor has been given at least 30 days' prior written notice as to the proposed transferee's name and address, ~~identity,~~ financial ability, and qualifications of the proposed transferee, a copy of the purchase agreement between the dealership and the proposed transferee, the identity and qualifications of the persons proposed to be involved in executive management or as principal operators, and the location and site plans of any proposed relocation. The franchisor shall send the dealership and the proposed transferee notice of objection, by registered or certified mail, return receipt requested, to the proposed transfer, sale, assignment, relocation, or change within 30 days after receipt of notice from the dealer, as provided in this section. The notice of objection shall state in detail all factual and legal bases for the objection on the part of the franchisor to the proposed transfer, sale, assignment, relocation, or change that is specifically referenced in this subdivision. An objection to a proposed transfer, sale, assignment, relocation, or change in the executive management or principal operator of the dealership may only be premised upon the factual and legal bases specifically referenced in this subdivision. A manufacturer's notice of objection which is based upon factual or legal issues that are not specifically referenced in this subdivision as being issues upon which the Commissioner shall base his determination shall not be effective to preserve the franchisor's right to object to the proposed transfer sale, assignment, relocation, or change, provided the dealership or proposed transferee has submitted written notice, as required above, as to the proposed transferee's name and address, financial ability, and qualifications of the proposed transferee, a copy of the purchase agreement between the dealership

and the proposed transferee, the identity and qualifications of the persons proposed to be involved in the executive management or as principal operators, and the location and site plans of any proposed relocation. Failure by the franchisor to send notice of objection within 30 days shall constitute waiver by the franchisor of any right to object to the proposed transfer, sale, assignment, relocation, or change. If the franchisor requires additional information to complete its review, the franchisor shall notify the dealership within 15 days after receipt of the proposed transferee's name and address, financial ability, and qualifications, a copy of the purchase agreement between the dealership and the proposed transferee, the identity and qualifications of the persons proposed to be involved in executive management or as principal operators, and the location and site plans of any proposed relocation. If the franchisor fails to request additional information from the dealer or proposed transferee within 15 days of receipt of this initial information, the 30-day time period within which the franchisor may provide notice of objection shall be deemed to run from the initial receipt date. Otherwise, the 30-day time period within which the franchisor may provide notice of objection shall run from the date the franchisor has received the supplemental information requested from the dealer or proposed transferee; provided, however, that failure by the franchisor to send notice of objection within 60 days of the franchisor's receipt of the initial information from the dealer shall constitute waiver by the franchisor of any right to object to the proposed transfer, sale, assignment, relocation, or change. With respect to a proposed transfer of ownership, sale, or assignment, the sole issue for determination by the Commissioner and the sole issue upon which the Commissioner shall hear or consider evidence is whether, by reason of lack of good moral character, lack of general business experience, or lack of financial ability, the proposed transferee is unfit to own the dealership. For purposes of this subdivision, the refusal by the manufacturer to accept a proposed transferee who is of good moral character and who otherwise meets the written, reasonable, and uniformly applied business experience and financial requirements, if any, required by the manufacturer of owners of its franchised automobile dealerships is presumed to demonstrate the manufacturer's failure to prove that the proposed transferee is unfit to own the dealership. With respect to a proposed change in the executive management or principal operator of the dealership, the sole issue for determination by the Commissioner and the sole issue on which the Commissioner shall hear or consider evidence shall be whether, by reason of lack of training, lack of prior experience, poor past performance, or poor character, the proposed candidate for a position within the executive management or as principal operator of the dealership is unfit for the position. For purposes of this subdivision, the refusal by the manufacturer to accept a proposed candidate for executive management or as principal operator who is of good moral character and who otherwise meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the

manufacturer relating to the business experience and prior performance of executive management required by the manufacturers of its dealers is presumed to demonstrate the manufacturer's failure to prove the proposed candidate for executive management or as principal operator is unfit to serve the capacity. With respect to a proposed relocation or other proposed change, the issue for determination by the Commissioner is whether the proposed relocation or other change is unreasonable under the circumstances. For purposes of this subdivision, the refusal by the manufacturer to agree to a proposed relocation which meets the written, reasonable, and uniformly applied standards or criteria, if any, of the manufacturer relating to dealer relocations is presumed to demonstrate that the manufacturer's failure to prove the proposed relocation is unreasonable under the circumstances. The manufacturer shall have the burden of proof before the Commissioner under this subdivision. It is unlawful for a manufacturer to, in any way, condition its approval of a proposed transfer, sale, assignment, change in the dealer's executive ~~management or~~ management, principal ~~operator~~operator, or appointment of a designated successor, on the existing or proposed dealer's willingness to construct a new facility, renovate the existing facility, acquire or refrain from acquiring one or more line-makes of vehicles, separate or divest one or more line-makes of vehicle, or establish or maintain exclusive facilities, personnel, or display space. It is unlawful for a manufacturer to, in any way, condition its approval of a proposed relocation on the existing or proposed dealer's willingness to acquire or refrain from acquiring one or more line-makes of vehicles, separate or divest one or more line-makes of vehicle, or establish or maintain exclusive facilities, personnel, or display space. The opinion or determination of a franchisor that the continued existence of one of its franchised dealers situated in this State is not viable, or that the dealer holds or fails to hold licensing rights for the sale of other line-makes of vehicles in a manner consistent with the franchisor's existing or future distribution or marketing plans, shall not constitute a lawful basis for the franchisor to fail or refuse to approve a dealer's proposed relocation: provided, however, that nothing contained in this subdivision shall be deemed to prevent or prohibit a franchisor from failing to approve a dealer's proposed relocation on grounds that the specific site or facility proposed by the dealer is otherwise unreasonable under the circumstances. Approval of a relocation pursuant to this subdivision shall not in itself constitute the franchisor's representation or assurance of the dealer's viability at that location."

SECTION 3. G.S. 20-305(7)c. reads as rewritten:

"c. Except as otherwise provided in sub-subdivision d. of this subdivision, any designated successor of a deceased or incapacitated owner or principal operator of a new motor vehicle dealership appointed by such owner in substantial compliance with this section shall, by operation of law, succeed at the time of such death or incapacity to all of the rights and

obligations of the owner or principal operator in the new motor vehicle dealership and under either the existing ~~franchise.~~franchise or any other successor, renewal, or replacement franchise."

SECTION 4. G.S. 20-305(18) reads as rewritten:

"(18) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business transferred in accordance with G.S. 20-305(4) above, or to prevent or attempt to prevent, through the exercise of any contractual right of first refusal or otherwise, a dealer located in this State from transferring the franchised business to such persons or other entities as the dealer shall designate in accordance with G.S. 20-305(4). The opinion or determination of a manufacturer that the existence or location of one of its franchised dealers situated in this State is not viable or is not consistent with the manufacturer's distribution or marketing forecast or plans shall not constitute a lawful basis for the manufacturer to fail or refuse to approve a dealer's proposed transfer of ownership submitted in accordance with G.S. 20-305(4), or "good cause" for the termination, cancellation, or nonrenewal of the franchise under G.S. 20-305(6) or ~~for the rejection of~~ grounds for the objection to an owner's designated successor appointed pursuant to G.S. 20-305(7). ~~No manufacturer shall owe any duty to any actual or potential purchaser of a motor vehicle franchise located in this State to disclose to such actual or potential purchaser its own opinion or determination that the franchise being sold or otherwise transferred is not viable or is not consistent with the manufacturer's distribution or marketing forecast or plans.~~"

SECTION 5. G.S. 20-305.1(b) reads as rewritten:

"(b) Notwithstanding the terms of any franchise agreement, it is unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to perform any of its warranty obligations with respect to a motor vehicle, to fail to fully compensate its motor vehicle dealers licensed in this State for warranty parts other than parts used to repair the living facilities of recreational vehicles, at the prevailing retail rate according to the factors in subsection (a) of this section, or, in service in accordance with the schedule of compensation provided the dealer pursuant to subsection (a) above, or to otherwise recover all or any portion of its costs for compensating its motor vehicle dealers licensed in this State for warranty parts and service either by reduction in the amount due to the dealer, or by separate charge, surcharge, or other imposition, and to fail to indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer, including, but not limited to, court costs and reasonable attorneys' fees of the motor vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or recision or revocation of acceptance of the sale of a motor vehicle as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective negligent manufacture, assembly or design of new motor vehicles, parts or accessories or other functions by the manufacturer, factory branch, distributor or distributor branch, beyond the control of the dealer. Any audit for warranty parts or service compensation shall only be for the 12-month period immediately following the date of the payment of the claim by the

manufacturer, factory branch, distributor, or distributor branch. Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall only be for the 12-month period immediately following the date of the ~~termination of the~~ payment of the claim by the manufacturer, factory branch, distributor, or distributor branch pursuant to a sales incentives program, service incentives program, rebate program, or other form of incentive compensation program. Provided, however, these limitations shall not be effective in the case of fraudulent claims."

SECTION 6. G.S. 20-305.1(b1) reads as rewritten:

"(b1) All claims made by motor vehicle dealers pursuant to this section for compensation for delivery, preparation, warranty and recall work including labor, parts, and other expenses, shall be paid by the manufacturer within 30 days after receipt of claim from the dealer. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. Any claim not specifically disapproved in writing within 30 days after receipt shall be considered approved and payment is due immediately. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or the dealer failed to reasonably substantiate the ~~claim.~~claim either in accordance with the manufacturer's reasonable written procedures or by other reasonable means. A manufacturer or distributor shall not deny a claim or reduce the amount to be reimbursed to the dealer as long as the dealer has provided reasonably sufficient documentation that the dealer:

(1) Made a good faith attempt to perform the work in compliance with the written policies and procedures of the manufacturer; and

(2) Actually performed the work.

Notwithstanding the foregoing, a manufacturer shall not fail to fully compensate a dealer for warranty or recall work or make any chargeback to the dealer's account based on the dealer's failure to comply with the manufacturer's claim documentation procedure or procedures unless both of the following requirements have been met:

(1) The dealer has, within the previous 12 months, failed to comply with the same specific claim documentation procedure or procedures; and

(2) The manufacturer has, within the previous 12 months, provided a written warning to the dealer by certified United States mail, return receipt requested, identifying the specific claim documentation procedure or procedures violated by the dealer.

Nothing contained in this subdivision shall be deemed to prevent or prohibit a manufacturer from adopting or implementing a policy or procedure which provides or allows for the self-audit of dealers, provided, however, that if any such self-audit procedure contains provisions relating to claim documentation, such claim documentation policies or procedures shall be subject to the prohibitions and requirements contained in this subdivision. Notices sent by a manufacturer under a bona fide self-audit procedure shall be deemed sufficient notice to meet the requirements of this subsection provided that the dealer is given reasonable opportunity through self-audit to identify and correct any out-of-line procedures for a period of at least 60 days before the manufacturer conducts its own audit of the dealer warranty operations and procedures. A manufacturer may further not charge a dealer back subsequent to the payment of the claim unless a representative of the manufacturer has met in person at the dealership, or by telephone, with an officer or employee of the dealer designated by the dealer and explained in detail the basis for each of the proposed charge-backs and

thereafter given the dealer's representative a reasonable opportunity at the meeting, or during the telephone call, to explain the dealer's position relating to each of the proposed charge-backs. In the event the dealer was selected for audit or review on the basis that some or all of the dealer's claims were viewed as excessive in comparison to average, mean, or aggregate data accumulated by the manufacturer, or in relation to claims submitted by a group of other franchisees of the manufacturer, the manufacturer shall, at or prior to the meeting or telephone call with the dealer's representative, provide the dealer with a written statement containing the basis or methodology upon which the dealer was selected for audit or review."

SECTION 7. G.S. 20-305.1(b2) reads as rewritten:

"(b2) A manufacturer may not deny a motor vehicle dealer's claim for sales incentives, service incentives, rebates, or other forms of incentive compensation, reduce the amount to be paid to the dealer, or charge a dealer back subsequent to the payment of the claim unless it can be shown that the claim was false or fraudulent or that the dealer failed to reasonably substantiate the claim either in accordance with the manufacturer's reasonable written procedures or by other reasonable means."

SECTION 8. G.S. 20-308.1 reads as rewritten:

"§ **20-308.1. Civil actions for violations.**

(a) Notwithstanding the terms, provisions or conditions of any agreement or franchise or other terms or provisions of any novation, waiver or other written instrument, any ~~person~~ motor vehicle dealer who is or may be injured by a violation of a provision of this Article, or any party to a franchise who is so injured in his business or property by a violation of a provision of this Article relating to that franchise, or an arrangement which, if consummated, would be in violation of this Article may, notwithstanding the initiation or pendency of, or failure to initiate an administrative proceeding before the Commissioner concerning the same parties or subject matter, bring an action for damages and equitable relief, including injunctive relief, in any court of competent jurisdiction with regard to any matter not within the jurisdiction of the Commissioner or that seeks relief wholly outside the authority or jurisdiction of the Commissioner to award.

(b) Where the violation of a provision of this Article can be shown to be willful, malicious, or wanton, or if continued multiple violations of a provision or provisions of this Article occur, the court may award punitive damages, attorneys' fees and costs in addition to any other damages under this Article.

(c) A new motor vehicle dealer, if he has not suffered any loss of money or property, may obtain final equitable relief if it can be shown that the violation of a provision of this Article by a manufacturer or distributor may have the effect of causing a loss of money or property.

(d) Any association that is comprised of a minimum of 400 new motor vehicle dealers, or a minimum of 10 motorcycle dealers, substantially all of whom are new motor vehicle dealers located within North Carolina, and which represents the collective interests of its members, shall have standing to file a petition before the Commissioner or a cause of action in any court of competent jurisdiction for itself, or on behalf of any or all of its members, seeking declaratory and injunctive relief. Prior to bringing an action, the association and manufacturer, factory branch, distributor, or distributor branch shall initiate mediation as set forth in G.S. 20-301.1(b). An action brought pursuant to this subsection may seek a determination whether one or more manufacturers, factory branches, distributors, or distributor branches doing business in this State have violated any of the provisions of this Article, or for the determination of

any rights created or defined by this Article, so long as the association alleges an injury to the collective interest of its members cognizable under this section. A cognizable injury to the collective interest of the members of the association shall be deemed to occur if a manufacturer, factory branch, distributor, or distributor branch doing business in this State has engaged in any conduct or taken any action which actually harms or affects all of the franchised new motor vehicle dealers holding franchises with that manufacturer, factory branch, distributor, or distributor branch in this State. With respect to any administrative or civil action filed by an association pursuant to this subsection, the relief granted shall be limited to declaratory and injunctive relief and in no event shall the Commissioner or court enter an award of monetary damages."

SECTION 9. G.S. 20-305 is amended by adding a new subdivision to read:

"(41) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, to use or consider the performance of any of its franchised new motor vehicle dealers located in this State relating to the sale of the manufacturer's new motor vehicles or ability to satisfy any minimum sales or market share quota or responsibility relating to the sale of the manufacturer's new motor vehicles in determining:

a. The dealer's eligibility to purchase program, certified, or other used motor vehicles from the manufacturer;

b. The volume, type, or model of program, certified, or other used motor vehicles the dealer shall be eligible to purchase from the manufacturer;

c. The price or prices of any program, certified, or other used motor vehicles that the dealer shall be eligible to purchase from the manufacturer; or

d. The availability or amount of any discount, credit, rebate, or sales incentive the dealer shall be eligible to receive from the manufacturer for the purchase of any program, certified, or other used motor vehicles offered for sale by the manufacturer."

SECTION 10. G.S. 20-305.7(b) reads as rewritten:

"(b) No manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor may access or utilize customer or prospect information maintained in a dealer management computer system utilized by a motor vehicle dealer located in this State for purposes of soliciting any such customer or prospect on behalf of, or directing such customer or prospect to, any other dealer. The limitations in this subsection do not apply to:

(1) A customer that requests a reference to another dealership;

(2) A customer that moves more than 60 miles away from the dealer whose data was accessed;

(3) Customer or prospect information that was provided to the dealer by the manufacturer, factory branch, distributor, or distributor branch; or

(4) Customer or prospect information obtained by the manufacturer, factory branch, distributor, or distributor branch where the dealer agrees to allow the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system

vendor the right to access and utilize the customer or prospect information maintained in the dealer's dealer management computer system for purposes of soliciting any customer or prospect of the dealer on behalf of, or directing such customer or prospect to, any other dealer in a separate, stand-alone written instrument dedicated solely to such authorization.

No manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor, may provide access to customer or dealership information maintained in a dealer management computer system utilized by a motor vehicle dealer located in this State, without first obtaining the dealer's prior express written consent, revocable by the dealer upon five business days written notice, to provide such access. Prior to obtaining said consent and prior to entering into an initial contract or renewal of a contract with a dealer located in this State, the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of, or through any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor shall provide to the dealer a written list of all third parties to whom any North Carolina dealer management computer system data has been provided within the 12-month period ending November 1 of the prior year. The list shall further describe the scope of the data provided. In addition to the initial list, a dealer management computer system vendor or any third party acting on behalf of, or through a dealer management computer system vendor shall provide to the dealer an annual list of third parties to whom said data is being provided on November 1 of each year and to whom said data has been provided in the preceding 12 months and describe the scope of the data provided. Such list shall be provided to the dealer by January 1 of each year. Any dealer management computer system vendor's contract that directly relates to the transfer or accessing of dealer or dealer customer information must conspicuously state, "NOTICE TO DEALER: THIS AGREEMENT RELATES TO THE TRANSFER AND ACCESSING OF CONFIDENTIAL INFORMATION AND CONSUMER RELATED DATA". Such consent does not change any such person's obligations to comply with the terms of this section and any additional State or federal laws (and any rules or regulations promulgated thereunder) applicable to them with respect to such access. In addition, no dealer management computer system vendor may refuse to provide a dealer management computer system to a motor vehicle dealer located in this State if the dealer refuses to provide any consent under this subsection, except to the extent that consent is deemed by the parties to be reasonably necessary in order for the vendor to provide the system to the dealer."

SECTION 11. G.S. 20-305.1 is amended by adding a new subsection to read:

"(g) Truck Dealer Cost Reimbursement. – Every manufacturer, manufacturer branch, distributor, or distributor branch of new motor vehicles, or any affiliate or subsidiary thereof, which manufactures or distributes new motor vehicles with a gross vehicle weight rating of 16,000 pounds or more shall compensate its new motor vehicle dealers located in this State for the cost of special tools, equipment, and training for which its dealers are liable when the applicable manufacturer, manufacturer branch, distributor, or distributor branch sells a portion of its vehicle inventory to converters and other nondealer retailers. The purpose of this reimbursement is to compensate truck dealers for special additional costs these dealers are required to pay for servicing these

vehicles when the dealers are excluded from compensation for these expenses at the point of sale. The compensation which shall be paid pursuant to this subsection shall be applicable only with respect to new motor vehicles with a gross vehicle weight rating of 16,000 pounds or more which are registered to end users within this State and that are sold by a manufacturer, manufacturer branch, distributor, or distributor branch to either:

(1) Persons or entities other than new motor vehicle dealers with whom the manufacturer, manufacturer branch, distributor, or distributor branch has entered into franchises; or

(2) Persons or entities that install custom bodies on truck chassis, including, but not limited to, mounted equipment or specialized bodies for concrete distribution, firefighting equipment, waste disposal, recycling, garbage disposal, buses, utility service, street sweepers, wreckers, and rollback bodies for vehicle recovery; provided, however, that no compensation shall be required to be paid pursuant to this subdivision with respect to vehicles sold for purposes of manufacturing or assembling school buses.

The amount of compensation which shall be payable by the applicable manufacturer, manufacturer branch, distributor, or distributor branch shall be six hundred dollars ($600.00) per new motor vehicle registered in this State whose chassis has a gross vehicle weight rating of 16,000 pounds or more. The compensation required pursuant to this subsection shall be paid by the applicable manufacturer, manufacturer branch, distributor, or distributor branch to its franchised new motor vehicle dealer in closest proximity to the registered address of the end user to whom the motor vehicle has been registered within 30 days after such registration. Upon receiving a request in writing from one of its franchised dealers located in this State, a manufacturer, manufacturer branch, distributor, or distributor branch shall promptly make available to such dealer its records relating to the registered addresses of its new motor vehicles registered in this State for the previous 12 months and its payment of compensation to dealers as provided in this subsection."

SECTION 12. G.S. 20-305(6) reads as rewritten:

"(6) Notwithstanding the terms, provisions or conditions of any franchise or notwithstanding the terms or provisions of any waiver, to terminate, cancel or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has satisfied the notice requirements of subparagraph c. and the Commissioner has determined, if requested in writing by the dealer within (i) the time period specified in ~~G.S. 20-305(6)c1II, III or IV,~~ G.S. 20-305(6)c.1.II., III., or IV., as applicable, or (ii) the effective date of the franchise termination specified or proposed by the manufacturer in the notice of termination, whichever period of time is longer, and after a hearing on the matter, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith as defined in this act regarding the termination, cancellation or nonrenewal. When such a petition is made to the Commissioner by a dealer for determination as to the existence of good cause and good faith for the termination, cancellation or nonrenewal of a franchise, the Commissioner shall promptly inform the manufacturer that a timely petition has been filed, and the franchise in question shall continue in effect pending the Commissioner's decision. The Commissioner shall

try to conduct the hearing and render a final determination within 180 days after a petition has been filed. If the termination, cancellation or nonrenewal is pursuant to ~~G.S. 20-305(6)c1III~~ G.S. 20-305(6)c.1.III. then the Commissioner shall give the proceeding priority consideration and shall try to render his final determination no later than 90 days after the petition has been filed. Any parties to a hearing by the Commissioner under this section shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150B of the General Statutes. Any determination of the Commissioner under this section finding that good cause exists for the nonrenewal, cancellation, or termination of any franchise shall automatically be stayed during any period that the affected dealer shall have the right to judicial review or appeal of the determination before the superior court or any other appellate court and during the pendency of any appeal; provided, however, that within 30 days of entry of the Commissioner's order, the affected dealer provide such security as the reviewing court, in its discretion, may deem appropriate for payment of such costs and damages as may be incurred or sustained by the manufacturer by reason of and during the pendency of the stay. Although the right of the affected dealer to such stay is automatic, the procedure for providing such security and for the award of damages, if any, to the manufacturer upon dissolution of the stay shall be in accordance with G.S. 1A-1, Rule 65(d) and (e). No such security provided by or on behalf of any affected dealer shall be forfeited or damages awarded against a dealer who obtains a stay under this subdivision in the event the ownership of the affected dealership is subsequently transferred, sold, or assigned to a third party in accordance with this subdivision or subdivision (4) of this section and the closing on such transfer, sale, or assignment occurs no later than 180 days after the date of entry of the Commissioner's order. Furthermore, unless and until the termination, cancellation, or nonrenewal of a dealer's franchise shall finally become effective, in light of any stay or any order of the Commissioner determining that good cause exists for the termination, cancellation, or nonrenewal of a dealer's franchise as provided in this paragraph, a dealer who receives a notice of termination, cancellation, or nonrenewal from a manufacturer as provided in this subdivision shall continue to have the same rights to assign, sell, or transfer the franchise to a third party under the franchise and as permitted under G.S. 20-305(4) as if notice of the termination had not been given by the manufacturer. Any franchise under notice or threat of termination, cancellation, or nonrenewal by the manufacturer which is duly transferred in accordance with G.S. 20-305(4) shall not be subject to termination by reason of failure of performance or breaches of the franchise on the part of the transferor.

a. Notwithstanding the terms, provisions or conditions of any franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when:

1. There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship provided that the dealer has been notified in writing of the failure within 180 days after the manufacturer first acquired knowledge of such failure;
2. If the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer if the new motor vehicle dealer was apprised by the manufacturer in writing of the failure; and
   I. The notification stated that notice was provided of failure of performance pursuant to this section;
   II. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than 180 days, to comply with the criteria; and
   III. The new motor vehicle dealer failed to demonstrate substantial progress towards compliance with the manufacturer's performance criteria during such period and the new motor vehicle dealer's failure was not primarily due to economic or market factors within the dealer's relevant market area which were beyond the dealer's control.

b. The manufacturer shall have the burden of proof under this section.

c. Notification of Termination, Cancellation and Nonrenewal. –
   1. Notwithstanding the terms, provisions or conditions of any franchise prior to the termination, cancellation or nonrenewal of any franchise, the manufacturer shall furnish notification of termination, cancellation or nonrenewal to the new motor vehicle dealer as follows:
      I. In the manner described in G.S. 20-305(6)c2 below; and
      II. Not less than 90 days prior to the effective date of such termination, cancellation or nonrenewal; or
      III. Not less than 15 days prior to the effective date of such termination, cancellation or nonrenewal with respect to any of the following:
         A. Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;
         B. Failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business

hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

C. Revocation of any license which the new motor vehicle dealer is required to have to operate a dealership;

D. Conviction of a felony involving moral turpitude, under the laws of this State or any other state, or territory, or the District of Columbia.

IV. Not less than 180 days prior to the effective date of such ~~termination or cancellation where the manufacturer or distributor is discontinuing the sale of the product line.~~termination, cancellation, or nonrenewal which occurs as a result of any change in ownership, operation, or control of all or any part of the business of the manufacturer, factory branch, distributor, or distributor branch whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law or otherwise; or the termination, suspension, or cessation of a part or all of the business operations of the manufacturers, factory branch, distributor, or distributor branch; or discontinuance of the sale of the product line or a change in distribution system by the manufacturer whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether.

V. Unless the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, not more than one year after the manufacturer first acquired knowledge of the basic facts comprising the failure.

2. Notification under this section shall be in writing; shall be by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:

I. A statement of intention to terminate, cancel or not to renew the franchise;

II. A detailed statement of all of the material reasons for the termination, cancellation or nonrenewal; and

III. The date on which the termination, cancellation or nonrenewal takes effect.

3. Notification provided in G.S. 20-305(6)c1II of 90 days prior to the effective date of such termination, cancellation or renewal may run concurrent with the 180 days designated in G.S. 20-305(6)a2II provided the notification is clearly designated by a separate written document mailed by certified mail or personally delivered to the new motor vehicle dealer.

d. Payments.

1. Upon the termination, nonrenewal or cancellation of any franchise by the manufacturer or distributor, pursuant to this section, the new motor vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for the:

I. New motor vehicle inventory that has been acquired from the manufacturer within 18 months, at a price not to exceed the original manufacturer's price to the dealer, and which has not been altered or damaged, and which has not been driven more than 200 miles, and for which no certificate of title has been issued;

II. Unused, undamaged and unsold supplies and parts purchased from the manufacturer, at a price not to exceed the original manufacturer's price to the dealer, provided such supplies and parts are currently offered for sale by the manufacturer or distributor in its current parts catalogs and are in salable condition;

III. Equipment, signs, and furnishings that have not been altered or damaged and that have been required by the manufacturer or distributor to be purchased by the new motor vehicle dealer from the manufacturer or distributor, or their approved sources; and

IV. Special tools that have not been altered or damaged and that have been required by the manufacturer or distributor to be purchased by the new motor vehicle dealer from the manufacturer or distributor, or their approved sources within five years immediately preceding the termination, nonrenewal or cancellation of the franchise.

2. Fair and reasonable compensation for the above shall be paid by the manufacturer within 90 days of the effective date of termination, cancellation or nonrenewal, provided the new motor vehicle dealer has clear title to the inventory and has conveyed title and possession of the same to the manufacturer. The manufacturer shall be obligated to pay or reimburse the dealer for any transportation charges associated with the manufacturer's repurchase obligations under this sub-subparagraph. The

manufacturer may not charge the dealer any handling, restocking, or other similar costs or fees associated with items repurchased by the manufacturer under this sub-subparagraph.

3. In addition to the other payments set forth in this section, if a termination, cancellation, or nonrenewal is premised upon any of the occurrences set forth in G.S. 20-305(6)c.1.IV., then the manufacturer shall be liable to the dealer for an amount at least equivalent to the fair market value of the franchise on (i) the date the franchisor announces the action which results in termination, cancellation, or nonrenewal; or (ii) the date the action which results in termination, cancellation, or nonrenewal first became general knowledge; or (iii) the day 12 months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher. Payment is due within 90 days of the effective date of the termination, cancellation, or nonrenewal. If the termination, cancellation, or nonrenewal is due to a manufacturer's change in distributors, the manufacturer may avoid paying fair market value to the dealer if the new distributor or the manufacturer offers the dealer a franchise agreement with terms acceptable to the dealer.

e. Dealership Facilities Assistance upon Termination, Cancellation or Nonrenewal.

In the event of the termination, cancellation or nonrenewal by the manufacturer or distributor under this section, except termination, cancellation or nonrenewal for insolvency, license revocation, conviction of a crime involving moral turpitude, or fraud by a dealer-owner:

1. Subject to paragraph 3, if the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the rent for the unexpired term of the lease or three year's rent, whichever is less, or such longer term as is provided in the franchise agreement between the dealer and manufacturer; except that, in the case of motorcycle dealerships, the manufacturer shall pay the new motor vehicle dealer the sum equivalent to the rent for the unexpired term of the lease or one year's rent, whichever is less, or such longer term as provided in the franchise agreement between the dealer and manufacturer; or
2. Subject to paragraph 3, if the new motor vehicle dealer owns the dealership facilities, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental value of the dealership facilities for

three years, or for one year in the case of motorcycle dealerships.

3. In order to be entitled to facilities assistance from the manufacturer, as provided in this paragraph e., the dealer, owner, or lessee, as the case may be, shall have the obligation to mitigate damages by listing the demised premises for lease or sublease with a licensed real estate agent within 30 days after the effective date of the termination of the franchise and thereafter by reasonably cooperating with said real estate agent in the performance of the agent's duties and responsibilities. In the event that the dealer, owner, or lessee is able to lease or sublease the demised premises, the dealer shall be obligated to pay the manufacturer the net revenue received from such mitigation up to the total amount of facilities assistance which the dealer has received from the manufacturer pursuant to sub-subdivisions 1. and 2. To the extent and for such uses and purposes as may be consistent with the terms of the lease, a manufacturer who pays facilities assistance to a dealer under this paragraph e. shall be entitled to occupy and use the dealership facilities during the years for which the manufacturer shall have paid rent under sub-subdivisions 1. and 2.
4. In the event the termination relates to fewer than all of the franchises operated by the dealer at a single location, the amount of facilities assistance which the manufacturer is required to pay the dealer under this sub-subdivision shall be based on the proportion of gross revenue received from the sale and lease of new vehicles by the dealer and from the dealer's parts and service operations during the three years immediately preceding the effective date of the termination (or any shorter period that the dealer may have held these franchises) of the line-makes being terminated, in relation to the gross revenue received from the sale and lease of all line-makes of new vehicles by the dealer and from the total of the dealer's and parts and service operations from this location during the same three-year period.
5. The compensation required for facilities assistance under this paragraph e. shall be paid by the manufacturer within 90 days of the effective date of termination, cancellation, or nonrenewal.

f. The provisions of sub-subdivisions d. and e. above shall not be applicable when the termination, nonrenewal or cancellation of the franchise agreement is the result of the voluntary act of the dealer.

Notwithstanding the terms of any contract or agreement, any dealer's termination or resignation shall not be deemed to be

voluntary if that termination or resignation occurred under the manufacturer's threat of nonrenewal, cancellation, or termination of the franchise.

g. A franchise shall continue in full force and operation notwithstanding a change, in whole or in part, of an established plan or system of distribution of the motor vehicles offered for sale under the franchise. The appointment of a new manufacturer, factory branch, distributor, or distributor branch for motor vehicles offered for sale under the franchise agreement shall be deemed to be a change of an established plan or system of distribution.

Upon the occurrence of the change, the Division shall deny an application of a manufacturer, factory branch, distributor, or distributor branch for a license or license renewal unless the applicant for a license as a manufacturer, factory branch, distributor, or distributor branch offers to each motor vehicle dealer who is a party to a franchise for that line-make a new franchise agreement containing substantially the same provisions which were contained in the previous franchise agreement or files an affidavit with the Division acknowledging its undertaking to assume and fulfill the rights, duties, and obligations of its predecessor under the previous franchise agreement."

SECTION 13. This act shall be applicable to all franchises and other contracts and agreements existing between motor vehicle dealers, on the one part, and manufacturers, factory branches, distributors, and distributor branches, on the other part, at the time of its ratification, and to all future franchises, contracts, and other agreements.

SECTION 14. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 15. This act becomes effective August 1, 2007, or when it becomes law, whichever is later. Nothing in this act applies to any administrative proceeding pending before the Commissioner of Motor Vehicles or any case pending in a court on or before the effective date of this act.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 1:16 p.m. on the 30th day of August, 2007.

Session Law 2007-514 **House Bill 316**

AN ACT TO AMEND RULE 45 OF THE RULES OF CIVIL PROCEDURE TO ESTABLISH AN OBLIGATION TO PROVIDE NOTICE TO ALL PARTIES TO AN ACTION OF RECEIPT OF MATERIAL PRODUCED IN COMPLIANCE WITH A SUBPOENA, AND TO PROVIDE A REASONABLE OPPORTUNITY TO INSPECT SUCH MATERIAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 45, is amended by adding a new subsection to read:

"(d1) Opportunity for Inspection of Subpoenaed Material. – A party or attorney responsible for the issuance and service of a subpoena shall, within five business days after the receipt of material produced in compliance with the subpoena, serve all other parties with notice of receipt of the material produced in compliance with the subpoena and, upon request, shall provide all other parties a reasonable opportunity to copy and inspect such material at the expense of the inspecting party."

SECTION 2. This act becomes effective October 1, 2007, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 1:17 p.m. on the 30th day of August, 2007.

Session Law 2007-515 **House Bill 1595**

AN ACT TO CLARIFY PROVISIONS IN THE LOCAL DEVELOPMENT ACT, TO CLARIFY URBAN PROGRESS ZONES AND AGRARIAN GROWTH ZONES, TO ALLOW MORE THAN ONE AGRARIAN GROWTH ZONE IN A COUNTY, TO CLARIFY WHEN THE LAST REPORT IS DUE FOR THE REPEALED LEE ACT CREDITS, TO MAKE TECHNICAL CHANGES CONCERNING THE TAX CREDITS FOR GROWING BUSINESSES; TO PROVIDE FOR PUBLICATION, MONITORING, AND REPORTING ON ECONOMIC DEVELOPMENT INCENTIVE CLAWBACKS; AND TO REQUIRE CLAWBACK PROVISIONS IN LOCAL ECONOMIC DEVELOPMENT AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-7.1(b)(4) reads as rewritten:

"(b) A county or city may undertake the following specific economic development activities. (This listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section). The activities listed in this subsection may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

…

(4) A county or city may ~~acquire or construct one or more "shell buildings", which are structures of flexible design adaptable for use by a variety of industrial or commercial businesses. A county or city may convey or lease a shell building or space in a shell building pursuant to subsection (c) of this section.~~acquire, construct, convey, or lease a building suitable for industrial or commercial use."

SECTION 2. G.S. 143B-437.09(a) reads as rewritten:

"(a) Urban Progress Zone Defined. – An urban progress zone is an area that meets all of the following conditions:

(1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, ~~or parts thereof,~~ in the most recent

federal decennial ~~census that meets all conditions in this subsection.~~census.

~~(1)~~(2) All ~~land within the zone~~ of the area is located in whole within the primary corporate limits of a municipality with a population ~~of more than~~ in excess of 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

~~(2)~~(3) Every census tract and census block group that ~~composes part of the zone~~ comprises the area meets at least one of the following conditions:

a. ~~More~~ It has a population that meets the poverty level threshold. The population of a census tract or census block group meets the poverty level threshold if more than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. ~~At~~ It is located adjacent to a census tract or census block group whose population meets the poverty level threshold and at least fifty percent (50%) of the ~~area of the portion that is within the primary corporate limits of the municipality~~ part of it that is included in the area is zoned as ~~nonresidential and the census tract or census block group is adjacent to a census tract or block group of which at least twenty percent (20%) of the population is below the poverty level.~~nonresidential. No more than thirty-five percent (35%) of the area of a zone may consist of census tracts or census block groups that satisfy this condition only.

c. It has a population that has a poverty level that is greater than the poverty level of the population of the State and a per capita income that is at least ten percent (10%) below the per capita income of the State according to the most recent federal decennial census, and it has experienced a major plant closing and layoff within the past 10 years. A census tract or census block group has experienced a major plant closing and layoff if one of its industries has closed one or more facilities in the census tract or census block group resulting in a layoff of at least 3,000 employees working in the census tract or census block group and if the number of employees laid off is greater than seven percent (7%) of the population of the municipality according to the most recent federal decennial census.

~~(3) The area of the zone zoned as nonresidential does not exceed thirty-five percent (35%) of the total area of the zone.~~"

SECTION 3. G.S. 143B-437.10 reads as rewritten:

"§ **143B-437.10. Agrarian growth zone designation.**

(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that meets all of the following conditions:

(1) It is comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial ~~census that meets all conditions in this subsection. A county may have no more than one agrarian growth zone.~~ census.

~~(1)~~(2) All ~~land within the zone~~ of the area is located in whole within a county that has no municipality with a population in excess of 10,000.

~~(2)~~(3) Every census tract and census block group that ~~composes part of the zone~~comprises the area has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

~~(3) The area of the zone less the smallest census tract included in the zone does not exceed five percent (5%) of the total area of the county in which the zone is located.~~

(b) Limitation and Designation. – The area of a county that is included in one or more agrarian growth zones shall not exceed five percent (5%) of the total area of the county. Upon application of a county, the Secretary of Commerce shall make a written determination whether an area is an agrarian growth zone that satisfies the conditions ~~and limitations~~ of subsection (a) of this section. The application shall include all of the information listed in this subsection. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all ~~urban progress~~ agrarian growth zones with a description of their boundaries.

(1) A map showing the census tracts and block groups that would comprise the zone.

(2) A detailed description of the boundaries of the area that would comprise the zone.

(3) A certification regarding the size of the proposed zone.

(4) Detailed census information on the county and the proposed zone.

(5) A resolution of the board of county commissioners requesting the designation of the area as an agrarian growth zone.

(6) Any other material required by the Secretary of Commerce.

(c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of this section, a parcel of property that is located partially within an agrarian growth zone is considered entirely within the zone if all of the following conditions are satisfied:

(1) At least fifty percent (50%) of the parcel is located within the zone.

(2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.

(3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary."

SECTION 4. G.S. 105-129.2A(d) reads as rewritten:

"(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by April 1, ~~2001.~~2001, and the last report due by June 1, 2007."

SECTION 5. G.S. 105-129.2A(a) reads as rewritten:

"(a) Sunset. – This Article is repealed ~~effective~~ for business activities that occur in taxable years beginning on or after January 1, 2007."

SECTION 6. Article 10 of Chapter 143B of the General Statutes is amended by adding the following new sections to read:

"**§ 143B-435.1. Clawbacks.**

(a) Clawback Defined. – For the purpose of this Article, a clawback is a requirement that all or part of an economic development incentive will be returned or forfeited if the recipient business does not fulfill its responsibilities under the incentive law, contract, or both.

(b) Findings. – The General Assembly finds that in order for a clawback to be effective, there must be monitoring and reporting regarding the business's performance of its responsibilities and a mechanism for obtaining repayment if the clawback requiring the return of previously disbursed funding is triggered. Clawback provisions are essential to protect the State's investment in a private business and ensure that the public benefits from the incentive will be secured.

(c) Catalog. – The Department of Commerce shall catalog all clawbacks in State and federal programs it administers, whether provided by statute, by rule, or under a contract. The catalog must include a description of each clawback, the program to which it applies, and a citation to its source. The Department shall publish the catalog on its Web site and update it every six months.

(d) Report. – The Department of Commerce shall report to the Revenue Laws Study Committee by April 1 and October 1 of each year on all clawbacks that have been triggered under programs it administers and its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid."

SECTION 7. G.S. 158-7.1 is amended by adding a new subsection to read:

"(h) Each economic development agreement entered into between a private enterprise and a city or county shall clearly state their respective responsibilities under the agreement. Each agreement shall contain provisions regarding remedies for a breach of those responsibilities on the part of the private enterprise. These provisions shall include a provision requiring the recapture of sums appropriated or expended by the city or county upon the occurrence of events specified in the agreement. Events that would require the city or county to recapture funds would include the creation of fewer jobs than specified in the agreement, a lower capital investment than specified in the agreement, and failing to maintain operations at a specified level for a period of time specified in the agreement."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 1:19 p.m. on the 30th day of August, 2007.

Session Law 2007-516 **House Bill 1659**

AN ACT AUTHORIZING CRIMINAL HISTORY RECORD CHECKS OF EMPLOYEES OF AND APPLICANTS FOR EMPLOYMENT WITH THE DEPARTMENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.21. Criminal history record checks of employees of and applicants for employment with the Department of Public Instruction.**

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

a. An applicant for employment or a current employee in a position in the Department of Public Instruction.

b. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Public Instruction.

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

(b) When requested by the Department of Public Instruction, the North Carolina Department of Justice may provide to the requesting department a covered person's criminal history from the State Repository of Criminal Histories. Such request shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department shall provide to the Department of Justice a form consenting to the check, signed by the covered person to be checked and any additional information required by the Department of Justice. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Public Instruction shall provide to the North Carolina Department of Justice the fingerprints of the covered person to be checked, any additional information required by the Department of Justice, and a form signed by the covered person to be checked, consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Instruction shall

keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Public Instruction shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of Criminal Information. All of the information the department receives through the checking of the criminal history is privileged information and for the exclusive use of the department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Public Instruction. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Public Instruction in determining whether employment shall be denied:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and job duties of the person;
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Public Instruction may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Public Instruction may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section."

SECTION 2. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Became law upon approval of the Governor at 1:22 p.m. on the 30th day of August, 2007.

Session Law 2007-517 **House Bill 536**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ADOPT NEW STANDARDS FOR SCHOOL ADMINISTRATOR PREPARATION PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-284 is amended by adding a new subsection to read:

"(c2) The State Board of Education shall adopt new standards by July 1, 2008, for school administrator preparation programs. The new standards shall:

(1) Be aligned with the revised standards for the evaluation of school executives and specifically address the use of the results of the Teacher Working Conditions Survey;

(2) Require evidence of a high level of institutional commitment, including dedicated resources, for administrator preparation program improvements and redesign;

(3) Require the use of cross-functional work teams to determine a common curriculum framework that (i) is designed to align with defined standards, (ii) includes rigorous core courses, and (iii) will produce administrators who meet the defined standards. The cross-functional work teams shall include school-based personnel, faculty from schools of education and other disciplines from institutions of higher education, and representatives of State agencies;

(4) Require the use of cross-functional work teams to design and periodically update specific standards regarding placement, required activities, and evaluations of clinical experiences. These standards shall include appropriate training for the school leaders who agree to accept and supervise interns;

(5) Require written agreements between the institution of higher education and a local school administrative unit to govern their shared responsibility for (i) recruitment and preparation of school administrators, especially with regard to clinical experiences including the internship, and (ii) a new administrator's success once employed;

(6) Require authentic partnerships between adjunct faculty and full-time faculty to fully address the need for both practical, field-based experience and academic, theory-based experience. These partnerships may require a change in the institution of higher education's definition of scholarly activity and its reward system;

(7) Require all candidates to complete a year-long internship; and

(8) Require the development of portfolios for emerging leaders that provide evidence they are applying their training to actual school needs and challenges.

Institutions of higher education shall redesign their school administrator preparation programs to meet the new standards and report to the State Board of Education on the redesign by July 1, 2009."

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

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 1:23 p.m. on the 30th day of August, 2007.

Session Law 2007-518 **House Bill 820**

AN ACT TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE TRANSFER OF WATER FROM ONE

RIVER BASIN TO ANOTHER RIVER BASIN AND THE ALLOCATION OF SURFACE WATER RESOURCES AND TO AMEND THE LAWS GOVERNING THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER RIVER BASIN.

The General Assembly of North Carolina enacts:

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

SECTION 1.(b) The Division of Water Resources of the Department of Environment and Natural Resources, in consultation with the Environmental Review Commission, shall prepare a revised map entitled "Major River Basins and Sub-basins in North Carolina". The revised map shall be prepared as a recommended replacement for the map referenced in G.S. 143-215.22G. The revised map shall define the extent to which any river basin that encompasses any river that flows from another state into North Carolina or that flows from North Carolina into another state extends into an adjacent state. The Environmental Review Commission shall recommend a revised map and a conforming legislative proposal to amend the definition of "river basin" set out in G.S. 143-215.22G to the 2008 Regular Session of the General Assembly.

SECTION 2. G.S. 143-215.22I is repealed.

SECTION 3. Part 2A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.22L. Regulation of surface water transfers.**

(a) Certificate Required. – No person, without first obtaining a certificate from the Commission, may:

(1) Initiate a transfer of 2,000,000 gallons of water or more per day from one river basin to another.

(2) Increase the amount of an existing transfer of water from one river basin to another by twenty-five percent (25%) or more above the average daily amount transferred during the year ending 1 July 1993 if the total transfer including the increase is 2,000,000 gallons or more per day.

(3) Increase an existing transfer of water from one river basin to another above the amount approved by the Commission in a certificate issued under G.S. 162A-7 prior to 1 July 1993.

(b) Exception. – Notwithstanding the provisions of subsection (a) of this section, a certificate shall not be required to transfer water from one river basin to another up to the full capacity of a facility to transfer water from one basin to another if the facility was in existence or under construction on 1 July 1993.

(c) Notice of Intent to File a Petition. – An applicant shall prepare a notice of intent to file a petition that includes a nontechnical description of the applicant's request and an identification of the proposed water source. Within 90 days after the applicant files a notice of intent to file a petition, the applicant shall hold at least one public meeting in the source river basin upstream from the proposed point of withdrawal, at least one public meeting in the source river basin downstream from the proposed point of withdrawal, and at least one public meeting in the receiving river basin to provide information to interested parties and the public regarding the nature and extent of the proposed transfer and to receive comment on the scope of the environmental documents. Written notice of the public meetings shall be provided at least 30 days before the public meetings. At the time the applicant gives notice of the public meetings, the applicant shall request comment on the alternatives and issues that should be addressed in the environmental documents required by this section. The applicant shall accept written comment on the scope of the environmental documents for a minimum of 30 days following the last public meeting. Notice of the public meetings and opportunity to comment on the scope of the environmental documents shall be provided as follows:

(1) By publishing notice in the North Carolina Register.

(2) By publishing notice in a newspaper of general circulation in:

a. Each county in this State located in whole or in part of the area of the source river basin upstream from the proposed point of withdrawal.

b. Each county in an adjacent state located in whole or in part of the area of the source river basin upstream from the proposed point of withdrawal, up to the point of the last impoundment upstream from the point of withdrawal. This sub-subdivision shall not apply if there are no impoundments located in the source river basin upstream from the proposed point of withdrawal.

c. Each county in this State or in an adjacent state located in whole or in part of the area of the source river basin downstream from the proposed point of withdrawal.

d. Any area in the State in a river basin for which the source river basin has been identified as a future source of water in a local water supply plan prepared pursuant to G.S. 143-355(l).

e. Each county in the State located in whole or in part of the receiving river basin.

(3) By giving notice by first-class mail or electronic mail to each of the following:

a. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any adjacent state that is located entirely or partially within the source river basin of the proposed transfer.

b. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any adjacent state that is located entirely or partially within the receiving river basin of the proposed transfer.

c. The governing body of any public water supply system that withdraws water upstream or downstream from the withdrawal point of the proposed transfer.

d. If any portion of the source or receiving river basins is located in an adjacent state, all state water management or use agencies, environmental protection agencies, and the office of the governor in each adjacent state upstream or downstream from the withdrawal point of the proposed transfer.

e. All persons who have registered a water withdrawal or transfer from the proposed source river basin under this Part or under similar law in an adjacent state.

f. All persons who hold a certificate for a transfer of water from the proposed source river basin under this Part or under similar law in an adjacent state.

g. All persons who hold a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit for a discharge of 100,000 gallons per day or more upstream or downstream from the proposed point of withdrawal.

h. To any other person who submits to the applicant a written request to receive all notices relating to the petition.

(d) Environmental Documents. – The definitions set out in G.S. 113A-9 apply to this section. The Department shall conduct a study of the environmental impacts of any proposed transfer of water for which a certificate is required under this section. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. An environmental assessment shall be prepared for any petition for a certificate under this section. The determination of whether an environmental impact statement shall also be required shall be made in accordance with the provisions of Article 1 of Chapter 113A of the General Statutes; except that an environmental impact statement shall be prepared for every proposed transfer of water from one major river basin to another for which a certificate is required under this section. The applicant who petitions the Commission for a certificate under this section shall pay the cost of special studies necessary to comply with Article 1 of Chapter 113A of the General Statutes. An environmental impact statement prepared pursuant to this subsection shall include all of the following:

(1) A comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted.

(2) An evaluation of alternatives to the proposed interbasin transfer, including water supply sources that do not require an interbasin transfer and use of water conservation measures.

(3) A description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer.

(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental documents for a minimum of 30 days following the last public hearing.

(f) Determination of Adequacy of Environmental Document. – The Commission shall not act on any petition for an interbasin transfer until the Commission has determined that the environmental document is complete and adequate. A decision on the adequacy of the environmental document is subject to review in a contested case on the decision of the Commission to issue or deny a certificate under this section.

(g) Petition. – An applicant for a certificate shall petition the Commission for the certificate. The petition shall be in writing and shall include all of the following:

(1) A description of the facilities to be used to transfer the water, including the location and capacity of water intakes, pumps, pipelines, and other facilities.

(2) A description of all the proposed consumptive and nonconsumptive uses of the water to be transferred.

(3) A description of the water quality of the source river and receiving river, including information on aquatic habitat for rare, threatened, and endangered species; in-stream flow data for segments of the source and receiving rivers that may be affected by the transfer; and any waters that are impaired pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)).

(4) A description of the water conservation measures used by the applicant at the time of the petition and any additional water conservation measures that the applicant will implement if the certificate is granted.

(5) A description of all sources of water within the receiving river basin, including surface water impoundments, groundwater wells, reinjection storage, and purchase of water from another source within the river basin, that is a practicable alternative to the proposed transfer that would meet the applicant's water supply needs. The description of water sources shall include sources available at the time of the petition for a certificate and any planned or potential water sources.

(6) A description of water transfers and withdrawals registered under G.S. 143-215.22H or included in a local water supply plan prepared pursuant to G.S. 143-355(l) from the source river basin, including transfers and withdrawals at the time of the petition for a certificate

and any planned or reasonably foreseeable transfers or withdrawals by a public water system with service area located within the source river basin.

(7) A demonstration that the proposed transfer, if added to all other transfers and withdrawals required to be registered under G.S. 143-215.22H or included in any local water supply plan prepared by a public water system with service area located within the source basin pursuant to G.S. 143-355(l) from the source river basin at the time of the petition for a certificate, would not reduce the amount of water available for use in the source river basin to a degree that would impair existing uses, pursuant to the antidegradation policy set out in 40 Code of Federal Regulation § 131.12 (Antidegradation Policy) (1 July 2006 Edition) and the statewide antidegradation policy adopted pursuant thereto, or existing and planned consumptive and nonconsumptive uses of the water in the source river basin. If the proposed transfer would impact a reservoir within the source river basin, the demonstration must include a finding that the transfer would not result in a water level in the reservoir that is inadequate to support existing uses of the reservoir, including recreational uses.

(8) The applicant's future water supply needs and the present and reasonably foreseeable future water supply needs for public water systems with service area located within the source river basin. The analysis of future water supply needs shall include agricultural, recreational, and industrial uses, and electric power generation. Local water supply plans prepared pursuant to G.S. 143-355(l) for water systems with service area located within the source river basin shall be used to evaluate the projected future water needs in the source river basin that will be met by public water systems.

(9) The applicant's water supply plan prepared pursuant to G.S. 143-355(l). If the applicant's water supply plan is more than two years old at the time of the petition, then the applicant shall include with the petition an updated water supply plan.

(10) Any other information deemed necessary by the Commission for review of the proposed water transfer.

(h) Settlement Discussions. – Upon the request of the applicant, any interested party, or the Department, or upon its own motion, the Commission may appoint a mediation officer. The mediation officer may be a member of the Commission, an employee of the Department, or a neutral third party but shall not be a hearing officer under subsections (e) or (j) of this section. The mediation officer shall make a reasonable effort to initiate settlement discussions between the applicant and all other interested parties. Evidence of statements made and conduct that occurs in a settlement discussion conducted under this subsection, whether attributable to a party, a mediation officer, or other person shall not be subject to discovery and shall be inadmissible in any subsequent proceeding on the petition for a certificate. The Commission may adopt rules to govern the conduct of the mediation process.

(i) Draft Determination. – Within 90 days after the Commission determines that the environmental document prepared in accordance with subsection (d) of this section is adequate or the applicant submits its petition for a certificate, whichever occurs later, the Commission shall issue a draft determination on whether to grant the certificate. The

draft determination shall be based on the criteria set out in this section and shall include the conditions and limitations, findings of fact, and conclusions of law that would be required in a final determination. Notice of the draft determination shall be given as provided in subsection (c) of this section.

(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer.

(k) Final Determination: Factors to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission shall specifically consider each of the following items and state in writing its findings of fact and conclusions of law with regard to each item:

(1) The necessity and reasonableness of the amount of surface water proposed to be transferred and its proposed uses.

(2) The present and reasonably foreseeable future detrimental effects on the source river basin, including present and future effects on public, industrial, economic, recreational, and agricultural water supply needs, wastewater assimilation, water quality, fish and wildlife habitat, electric power generation, navigation, and recreation. Local water supply plans for public water systems with service area located within the source river basin prepared pursuant to G.S. 143-355(l) shall be used to evaluate the projected future water needs in the source river basin that will be met by public water systems. Information on projected future water needs for public water systems with service area located within the source river basin that is more recent than the local water supply plans may be used if the Commission finds the information to be reliable. The determination shall include a specific finding as to measures that are necessary or advisable to mitigate or avoid detrimental impacts on the source river basin.

(3) The cumulative effect on the source major river basin of any water transfer or consumptive water use that, at the time the Commission considers the petition for a certificate is occurring, is authorized under this section, or is projected in any local water supply plan for public water systems with service area located within the source river basin that has been submitted to the Department in accordance with G.S. 143-355(l).

(4) The present and reasonably foreseeable future beneficial and detrimental effects on the receiving river basin, including present and future effects on public, industrial, economic, recreational, and agricultural water supply needs, wastewater assimilation, water quality, fish and wildlife habitat, electric power generation, navigation, and recreation. Local water supply plans prepared pursuant to G.S. 143-355(l) that affect the receiving river basin shall be used to evaluate the projected future water needs in the receiving river basin that will be met by public water systems. Information on projected future water needs that is more recent than the local water supply plans may be used if the Commission finds the information to be reliable. The determination shall include a specific finding as to measures that are necessary or advisable to mitigate or avoid detrimental impacts on the receiving river basin.

(5) The availability of reasonable alternatives to the proposed transfer, including the potential capacity of alternative sources of water, the potential of each alternative to reduce the amount of or avoid the proposed transfer, probable costs, and environmental impacts. In considering alternatives, the Commission is not limited to consideration of alternatives that have been proposed, studied, or considered by the applicant. The determination shall include a specific finding as to why the applicant's need for water cannot be satisfied by alternatives within the receiving basin, including unused capacity under a transfer for which a certificate is in effect or that is otherwise authorized by law at the time the applicant submits the petition. The determination shall consider the extent to which access to potential sources of surface water or groundwater within the receiving river basin is no longer available due to depletion, contamination, or the declaration of a capacity use area under Part 2 of Article 21 of Chapter 143 of the General Statutes. The determination shall consider the feasibility of the applicant's purchase of water from other water suppliers within the receiving basin and of the transfer of water from another sub-basin within the receiving major river basin. Except in circumstances of technical or economic infeasibility or adverse environmental impact, the Commission's determination as to reasonable alternatives shall give preference to alternatives that would involve a transfer from one sub-basin to another within the major receiving river basin over alternatives that would involve a transfer from one major river basin to another major river basin.

(6) If applicable to the proposed project, the applicant's present and proposed use of impoundment storage capacity to store water during high-flow periods for use during low-flow periods and the applicant's right of withdrawal under G.S. 143-215.44 through G.S. 143-215.50.

(7) If the water to be withdrawn or transferred is stored in a multipurpose reservoir constructed by the United States Army Corps of Engineers, the purposes and water storage allocations established for the reservoir at the time the reservoir was authorized by the Congress of the United States.

(8) Whether the service area of the applicant is located in both the source river basin and the receiving river basin.

(9) Any other facts and circumstances that are reasonably necessary to carry out the purposes of this Part.

(l) Final Determination: Information to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission shall consider all of the following sources of information:

(1) The petition.

(2) The environmental document prepared pursuant to subsection (d) of this section.

(3) All oral and written comment and all accompanying materials or evidence submitted pursuant to subsections (e) and (j) of this section.

(4) Information developed by or available to the Department on the water quality of the source river basin and the receiving river basin, including waters that are identified as impaired pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)), that are subject to a total maximum daily load (TMDL) limit under subsections (d) and (e) of section 303 of the federal Clean Water Act, or that would have their assimilative capacity impaired if the certificate is issued.

(5) Any other information that the Commission determines to be relevant and useful.

(m) Final Determination: Burden and Standard of Proof; Specific Findings. – The Commission shall grant a certificate for a water transfer if the Commission finds that the applicant has established by a preponderance of the evidence all of the following:

(1) The benefits of the proposed transfer outweigh the detriments of the proposed transfer. In making this determination, the Commission shall be guided by the approved environmental document and the policy set out in subsection (t) of this section.

(2) The detriments have been or will be mitigated to the maximum degree practicable.

(3) The amount of the transfer does not exceed the amount of the projected shortfall under the applicant's water supply plan after first taking into account all other sources of water that are available to the applicant.

(4) There are no reasonable alternatives to the proposed transfer.

(n) Final Determination: Certificate Conditions and Limitations. – The Commission may grant the certificate in whole or in part, or deny the certificate. The Commission may impose any conditions or limitations on a certificate that the Commission finds necessary to achieve the purposes of this Part including a limit on the period for which the certificate is valid. The conditions and limitations shall include any mitigation measures proposed by the applicant to minimize any detrimental effects within the source and receiving river basins. In addition, the certificate shall require all of the following conditions and limitations:

(1) A water conservation plan that specifies the water conservation measures that will be implemented by the applicant in the receiving river basin to ensure the efficient use of the transferred water. Except in circumstances of technical or economic infeasibility or adverse environmental impact, the water conservation plan shall provide for the mandatory implementation of water conservation measures by the

applicant that equal or exceed the most stringent water conservation plan implemented by a community water system, as defined in G.S. 143-355(l), that withdraws water from the source river basin.

(2) A drought management plan that specifies how the transfer shall be managed to protect the source river basin during drought conditions or other emergencies that occur within the source river basin. Except in circumstances of technical or economic infeasibility or adverse environmental impact, this drought management plan shall include mandatory reductions in the permitted amount of the transfer based on the severity and duration of a drought occurring within the source river basin and shall provide for the mandatory implementation of a drought management plan by the applicant that equals or exceeds the most stringent water conservation plan implemented by a community water system, as defined in G.S. 143-355(l), that withdraws water from the source river basin.

(3) The maximum amount of water that may be transferred on a daily basis, and methods or devices required to be installed and operated that measure the amount of water that is transferred.

(4) A provision that the Commission may amend a certificate to reduce the maximum amount of water authorized to be transferred whenever it appears that an alternative source of water is available to the certificate holder from within the receiving river basin, including, but not limited to, the purchase of water from another water supplier within the receiving basin or to the transfer of water from another sub-basin within the receiving major river basin.

(5) A provision that the Commission shall amend the certificate to reduce the maximum amount of water authorized to be transferred if the Commission finds that the applicant's current projected water needs are significantly less than the applicant's projected water needs at the time the certificate was granted.

(6) A requirement that the certificate holder report the quantity of water transferred during each calendar quarter. The report required by this subdivision shall be submitted to the Commission no later than 30 days after the end of the quarter.

(7) Except as provided in this subdivision, a provision that the applicant will not resell the water that would be transferred pursuant to the certificate to another public water supply system. This limitation shall not apply in the case of a proposed resale or transfer among public water supply systems within the receiving river basin as part of an interlocal agreement or other regional water supply arrangement, provided that each participant in the interlocal agreement or regional water supply arrangement is a co-applicant for the certificate and will be subject to all the terms, conditions, and limitations made applicable to any lead or primary applicant.

(o) Administrative and Judicial Review. – Administrative and judicial review of a final decision by the Commission on a petition for a certificate under this section shall be governed by Chapter 150B of the General Statutes.

(p) Certain Preexisting Transfers. – In cases where an applicant requests approval to increase a transfer that existed on 1 July 1993, the Commission may approve or

disapprove only the amount of the increase. If the Commission approves the increase, the certificate shall be issued for the amount of the preexisting transfer plus any increase approved by the Commission. A certificate for a transfer approved by the Commission under G.S. 162A-7 shall remain in effect as approved by the Commission and shall have the same effect as a certificate issued under this Part. A certificate for the increase of a preexisting transfer shall contain all of the conditions and limitations required by subsection (m) of this section.

(q) Emergency Transfers. – In the case of water supply problems caused by drought, a pollution incident, temporary failure of a water plant, or any other temporary condition in which the public health, safety, or welfare requires a transfer of water, the Secretary of Environment and Natural Resources may grant approval for a temporary transfer. Prior to approving a temporary transfer, the Secretary shall consult with those parties listed in subdivision (3) of subsection (c) of this section that are likely to be affected by the proposed transfer. However, the Secretary shall not be required to satisfy the public notice requirements of this section or make written findings of fact and conclusions of law in approving a temporary transfer under this subsection. If the Secretary approves a temporary transfer under this subsection, the Secretary shall specify conditions to protect other water users. A temporary transfer shall not exceed six months in duration, but the approval may be renewed for a period of six months by the Secretary based on demonstrated need as set forth in this subsection.

(r) Relationship to Federal Law. – The substantive restrictions, conditions, and limitations upon surface water transfers authorized in this section may be imposed pursuant to any federal law that permits the State to certify, restrict, or condition any new or continuing transfers or related activities licensed, relicensed, or otherwise authorized by the federal government. This section shall govern the transfer of water from one river basin to another unless preempted by federal law.

(s) Planning Requirements. – When any transfer for which a certificate was issued under this section equals or exceeds eighty percent (80%) of the maximum amount authorized in the certificate, the applicant shall submit to the Department a detailed plan that specifies how the applicant intends to address future foreseeable water needs. If the applicant is required to have a local water supply plan, then this plan shall be an amendment to the local water supply plan required by G.S.143-355(l). When the transfer equals or exceeds ninety percent (90%) of the maximum amount authorized in the certificate, the applicant shall begin implementation of the plan submitted to the Department.

(t) Statement of Policy. – It is the public policy of the State to maintain, protect, and enhance water quality within North Carolina. It is the public policy of this State that the reasonably foreseeable future water needs of a public water system with its service area located primarily in the receiving river basin are subordinate to the reasonably foreseeable future water needs of a public water system with its service area located primarily in the source river basin. Further, it is the public policy of the State that the cumulative impact of transfers from a source river basin shall not result in a violation of the antidegradation policy set out in 40 Code of Federal Regulations § 131.12 (1 July 2006 Edition) and the statewide antidegradation policy adopted pursuant thereto.

(u) Renewal of Certificate. – A petition to extend or renew a certificate shall be treated as a new petition."

SECTION 4. G.S. 113A-8.1 reads as rewritten:

"§ **113A-8.1. Surface water transfers.**

An environmental assessment shall be prepared for any transfer for which a petition is filed in accordance with ~~G.S. 143-215.22I.~~G.S. 143-215.22L. The determination of whether an environmental impact statement is needed with regard to the proposed transfer shall be made in accordance with the provisions of this Article."

SECTION 5. G.S. 143-215.6A(a)(9) reads as rewritten:

"(9) Is required, but fails, to apply for or to secure a certificate required by ~~G.S. 143-215.22I,~~ G.S. 143-215.22L, or who violates or fails to act in accordance with the terms, conditions, or requirements of the certificate."

SECTION 6. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 7.(a) Except as provided in subsection (b) of this section, this act becomes effective when it becomes law and applies to any petition for a certificate for a transfer of surface water from one river basin to another river basin first made on or after that date.

SECTION 7.(b) For a petition for a certificate for transfer of surface water from one river basin to another river basin to supplement ground water supplies in the fifteen counties designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501, this act becomes effective 1 January 2011. Prior to 1 January 2011, a petition for a certificate for transfer of surface water from one river basin to another river basin to supplement ground water supplies in the fifteen counties designated as the Central Coastal Plain Capacity Use Area shall be considered and acted upon by the Environmental Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I on 1 July 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:17 a.m. on the 31st day of August, 2007.

Session Law 2007-519 **House Bill 705**

AN ACT TO PERMIT LOCAL BOARDS OF EDUCATION TO ENTER INTO LEASE PURCHASE OR INSTALLMENT PURCHASE CONTRACTS FOR FOOD SERVICE EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-528(a) reads as rewritten:

"(a) Local boards of education may purchase or finance the purchase of automobiles; school buses; mobile classroom units; food service equipment, photocopiers; and computers, computer hardware, computer software, and related support services by lease purchase contracts and installment purchase contracts as provided in this section. Computers, computer hardware, computer software, and related support services purchased under this section shall meet the technical standards specified in the North Carolina Instructional Technology Plan as developed and approved under G.S. 115C-102.6A and G.S. 115C-102.6B."

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

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 11:24 a.m. on the 31st day of August, 2007.

Session Law 2007-520 **House Bill 1551**

AN ACT TO ENACT THE STATE GOVERNMENTAL ACCOUNTABILITY AND INTERNAL CONTROL ACT; TO ESTABLISH INTERNAL CONTROL STANDARDS FOR STATE GOVERNMENT; AND TO INCREASE FISCAL ACCOUNTABILITY WITHIN STATE GOVERNMENT.

Whereas, the people of North Carolina entrust the oversight of public institutions to elected and appointed officials for the purpose of furthering the public interest; and

Whereas, the oversight of those public institutions requires an effective and efficient system of internal control providing reasonable assurance that the public's objectives are met; and

Whereas, ensuring such a system of internal control requires applicable statewide standards and specific assignment of related responsibilities; and

Whereas, for a system of internal control to continue to operate properly, responsibilities for and within the system must be clearly demarked; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 143D.**

"**The State Governmental Accountability and Internal Control Act.**

"Article 1.

"General Provisions.

"**§ 143D-1. Title.**

This Chapter shall be known and may be cited as the 'State Governmental Accountability and Internal Control Act.'

"**§ 143D-2. Purpose.**

The purpose of this Chapter is to ensure a strong and effective system of internal control within State government and to clearly indicate responsibilities related to that system of internal control. Therefore, it is the intent of the General Assembly in this Chapter to clearly establish responsibilities related to internal control within State government.

"**§ 143D-3. Definitions.**

The following definitions apply in this Chapter:

(1) Internal control. – An integral process, effected by an entity's governing body, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives related to the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations.

(2) Principal executive officer. – Executive head of a State agency.

(3) Principal fiscal officer. – Chief fiscal officer of a State agency.

(4) State agency. – Any department, institution, board, commission, committee, division, bureau, officer, official, or any other entity for which the State has oversight responsibility, including, but not limited to, any university, mental or specialty hospital, community college, or clerk of court.

"Article 2.

"Internal Control Responsibilities.

"**§ 143D-6. Standards setting responsibilities.**

The State Controller, in consultation with the State Auditor, shall establish comprehensive standards, policies, and procedures to ensure a strong and effective system of internal control within State government. These standards, policies, and procedures shall be made readily available to all State agencies, and the State Controller shall make appropriate education efforts to inform relevant State agency staffs of the standards, policies, procedures, and internal control best practices. These efforts shall include the development of training courses, manuals, and other information sources to promulgate internal control standards, policies, procedures, and best practices throughout all State agencies.

"**§ 143D-7. Agency management responsibilities.**

The management of each State agency bears full responsibility for establishing and maintaining a proper system of internal control within that agency. Each principal executive officer and each principal fiscal officer shall annually certify, in a manner prescribed by the State Controller, that the agency has in place a proper system of internal control. The State Controller shall develop policies and procedures to direct agencies in their evaluation.

The management of each State agency also bears the responsibility periodically to submit accurate and complete financial information to the State Controller for compilation into North Carolina State government's various financial reports and other related financial information disseminated to the public. With the submission of such periodic reports to the State Controller, each agency's principal executive officer and each agency's principal fiscal officer shall certify, in a manner prescribed by the State Controller, to the accuracy and completeness of the financial information submitted.

"**§ 143D-8. Internet control documentation.**

Each State agency shall maintain documentation, as prescribed by the State Controller, of the system of internal control within that agency. All internal control documentation shall be available upon request for examination by the State Controller and the State Auditor.

"Article 3.

"Accountability.

"**§ 143D-11. Violations.**

The State Controller, in consultation with the State Auditor, shall establish a mechanism to allow for the reporting and investigation of violations of the provisions of this Chapter. This mechanism shall encourage all State employees to become familiar with the provisions of this Chapter and to report any known violations.

"**§ 143D-12. Penalties.**

A willful or continued failure of an employee paid from State funds or employed by a State agency to adhere to the requirements of this Chapter is sufficient cause for disciplinary action, up to and including dismissal of the employee."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:25 a.m. on the 31st day of August, 2007.

Session Law 2007-521 **House Bill 1593**

AN ACT TO DIRECT THE EXECUTIVE ADMINISTRATOR OF THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN TO PREPARE TO CHANGE THE STATE HEALTH PLAN FROM A FISCAL YEAR TO A CALENDAR YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. The Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan shall evaluate the actuarial, administrative, financial, operational, and plan member impact of converting the Plan's benefit plan year to a calendar year basis from a fiscal year basis. Not later than April 1, 2008, the Executive Administrator shall report his findings and recommendations to the Committee on Employee Hospital and Medical Benefits and the Fiscal Research Division. The report shall include the following information:

(1) An estimate of actuarial impact to the Plan under six-month and 18-month transition plan years respectively, as a means to implement a fiscal year to calendar year transition. Each respective transition plan year scenario estimate shall clearly state the Executive Administrator's assumptions about projected out-of-pocket requirements and limits for plan members for deductibles and co-insurance under each scenario.

(2) A description of potential benefit option changes that may be possible in the event the General Assembly authorizes the Plan to switch its benefit plan year to a calendar year. Each option should be accompanied with an analysis of the change in benefits to plan members and a refined estimate of actuarial impact to the Plan with clearly stated assumptions and supporting data from which any analysis is offered by the Executive Administrator.

(3) A description of any other actuarial, administrative, financial, operational, and plan member impacts including, but not limited to, costs increases or reductions in contracts providing claims processing of medical and drug claims, provision of provider networks, or other contractual administration.

(4) Any specific recommendations or other issues by the Executive Administrator with respect to a possible transition to a calendar year based benefit plan year.

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:28 a.m. on the 31st day of August, 2007.

Session Law 2007-522 **House Bill 206**

AN ACT TO DISTINGUISH BETWEEN SPECIAL PLATES ISSUED TO BRONZE STAR RECIPIENTS FOR MERITORIOUS SERVICE OR FOR VALOR IN COMBAT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4 is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

…

(16a) Bronze Star Combat Recipient. – Issuable to a recipient of the Bronze Star Medal for valor in combat. The plate shall bear the emblem of the Bronze Star with a "Combat V" emblem and the words "Bronze Star." To be eligible for this plate, the applicant must provide documentation that the medal was issued for valor in combat.

…."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:29 a.m. on the 31st day of August, 2007.

Session Law 2007-523 **Senate Bill 1465**

AN ACT TO (1) CODIFY AND MAKE PERMANENT THE SWINE FARM ANIMAL WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS THAT THE GENERAL ASSEMBLY ENACTED IN 1998, (2) PROVIDE FOR THE REPLACEMENT OF A LAGOON THAT IS AN IMMINENT HAZARD, (3) ASSIST FARMERS TO VOLUNTARILY CONVERT TO INNOVATIVE ANIMAL WASTE MANAGEMENT SYSTEMS, AND (4) ESTABLISH THE SWINE FARM METHANE CAPTURE PILOT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Performance Standards. – Part 1A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.10I. Performance standards for animal waste management systems that serve swine farms; lagoon and sprayfield systems prohibited.**

(a) As used in this section:

(1) 'Anaerobic lagoon' means a lagoon that treats waste by converting it into carbon dioxide, methane, ammonia, and other gaseous compounds; organic acids; and cell tissue through an anaerobic process.

(2) 'Anaerobic process' means a biological treatment process that occurs in the absence of dissolved oxygen.

(3) 'Lagoon' has the same meaning as in G.S. 106-802.

(4) 'Swine farm' has the same meaning as in G.S. 106-802.

(b) The Commission shall not issue or modify a permit to authorize the construction, operation, or expansion of an animal waste management system that

serves a swine farm that employs an anaerobic lagoon as the primary method of treatment and land application of waste by means of a sprayfield as the primary method of waste disposal. The Commission may issue a permit for the construction, operation, or expansion of an animal waste management system that serves a swine farm under this Article only if the Commission determines that the animal waste management system will meet or exceed all of the following performance standards:

(1) Eliminate the discharge of animal waste to surface water and groundwater through direct discharge, seepage, or runoff.

(2) Substantially eliminate atmospheric emission of ammonia.

(3) Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the swine farm is located.

(4) Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.

(5) Substantially eliminate nutrient and heavy metal contamination of soil and groundwater."

SECTION 1.(b) Continued Operation. – An animal waste management system that serves a swine farm for which a permit was issued prior to 1 September 2007 and that does not meet the requirements of G.S. 143-215.10I, as enacted by subsection (a) of this section, may continue to operate under, and shall operate in compliance with, that permit, including any renewal of the permit.

SECTION 1.(c) Lagoon Replacement. – Notwithstanding G.S. 143-215.10I, as enacted by subsection (a) of this section, the Environmental Management Commission may modify a permit that was initially issued prior to 1 September 2007 for an animal waste management system that serves a swine farm to authorize the replacement of a lagoon that is a component of the animal waste management system if the Commission finds all of the following:

(1) The permit holder has operated and maintained the animal waste management system in substantial compliance with the permit and all applicable federal and State laws, regulations, and rules.

(2) The lagoon constitutes or will constitute an imminent hazard as defined in G.S. 130A-2.

(3) Repair of the lagoon will not abate the imminent hazard.

(4) Replacement of the lagoon will abate the imminent hazard and allow the permit holder to operate and maintain the replacement lagoon in compliance with all applicable requirements of federal and State laws, regulations, and rules.

(5) Design and construction of the replacement lagoon shall meet all applicable requirements of federal and State laws, regulations, and rules; comply with the most recent Conservation Practice Standard published by the Natural Resources Conservation Service; and employ the best available technology that is economically and technically feasible. In determining best available technology and economic and technical feasibility, the Commission may consult with the Animal and Poultry Waste Management Center of North Carolina State University and with other persons who have specialized training or experience related to animal waste management systems.

(6) The replacement lagoon shall not be located in the 100-year floodplain.

(7) All equipment associated with operation of the replacement lagoon and with land application of waste from the lagoon shall be upgraded to meet all applicable requirements of federal and State laws, regulations, and rules and to comply with the most recent Conservation Practice Standard published by the Natural Resources Conservation Service.

(8) The replacement will not result in an increase in the permitted capacity, stated as steady state live weight, of the animal waste management system.

(9) The lagoon to be replaced shall be closed in accordance with all applicable requirements of federal and State laws, regulations, and rules and with the most recent Conservation Practice Standard published by the Natural Resources Conservation Service.

SECTION 1.(d) Rule Making. – The Environmental Management Commission shall adopt rules to implement G.S. 143-215.10I, as enacted by subsection (a) of this section. Until rules to implement G.S. 143-215.10I become effective, the Commission, in implementing G.S. 143-215.10I, shall refer to the report entitled "Development of Environmentally Superior Technologies – Phase 3 Report: for Technology Determinations per Agreements Between the Attorney General of North Carolina and Smithfield Foods, Premium Standard Farms, and Frontline Farmers" dated 8 March 2006. The Commission shall consult with the Animal and Poultry Waste Management Center of North Carolina State University regarding the application and modification of technical standards required to implement G.S. 143-215.10I.

SECTION 2.(a) Definitions. – The definitions set out in G.S. 143-215.10I(a), as enacted by Section 1 of this act, apply to this section. As used in this section, an "innovative animal waste management system" means an animal waste management system that serves a swine farm that may be permitted under G.S. 143-215.10I(b), as enacted by Section 1 of this act.

SECTION 2.(b) Lagoon Conversion Program. – The Lagoon Conversion Program is hereby established. The Program shall provide grants to assist in the conversion of animal waste management systems that serve swine farms in operation on or before 1 September 2007 that employ anaerobic lagoons as the primary method of treatment to innovative animal waste management systems. Grants under the Program may also be used to:

(1) Assist in the closure of sprayfield and lagoon systems that are replaced by innovative animal waste management systems if the closure is performed in accordance with applicable federal and State laws, regulations, and rules.

(2) Establish centralized waste collection and treatment systems that serve innovative animal waste management systems.

SECTION 2.(c) Program Administration. – The Program shall be administered by the Division of Soil and Water Conservation in the Department of Environment and Natural Resources through the Agriculture Cost Share Program for Nonpoint Source Pollution Control established pursuant to G.S. 143-215.74. The Division shall administer the Program as provided in this section and Part 9 of Article 21 of Chapter 143 of the General Statutes.

SECTION 2.(d) Program Functions. – Under the Lagoon Conversion Program, the Division of Soil and Water Conservation in the Department of Environment and Natural Resources, through the Agriculture Cost Share Program for Nonpoint Source Pollution Control, shall:

(1) Within funds available to the Swine Farm Waste Management System Conversion Account established by Section 3 of this act, provide grants subject to all of the following limitations and requirements:
   a. For grants approved on or before 30 June 2012, State funding shall be limited to:
      1. Ninety percent (90%) of the average cost for each practice with the assisted person providing ten percent (10%) of the cost, which may include in-kind support of the practice.
      2. A maximum of five hundred thousand dollars ($500,000) per year to each applicant.
   b. For grants approved on or after 1 July 2012 and on or before 30 June 2017, State funding shall be limited to:
      1. Eighty percent (80%) of the average cost for each practice with the assisted person providing twenty percent (20%) of the cost, which may include in-kind support of the practice.
      2. A maximum of four hundred fifty thousand dollars ($450,000) per year to each applicant.
   c. For grants approved on or after 1 July 2017, State funding shall be limited to:
      1. Seventy-five percent (75%) of the average cost for each practice with the assisted person providing twenty-five percent (25%) of the cost, which may include in-kind support of the practice.
      2. A maximum of four hundred thousand dollars ($400,000) per year to each applicant.
   d. All other limitations and requirements set out in Part 9 of Article 21 of Chapter 143 of the General Statutes, as modified by this section.

(2) Establish criteria to prioritize the installation of innovative animal waste management systems that serve swine farms. Priority shall be given to systems that are affordable, easily maintained, produce marketable by-products, reduce or eliminate the emission of ammonia and greenhouse gases, and are capable of being connected to a centralized waste collection and treatment.

(3) Establish criteria for the selection of applicants who are eligible for participation in the Program. Priority shall be given to applicants whose participation in the Program will result in the removal of animal waste management systems from floodplains; who have substantially complied with federal and State laws, regulations, and rules for the protection of the environment, natural resources, and public health; and who have a limited ability to pay for or finance an innovative swine waste management system through private or cooperative credit at reasonable rates and terms.

(4) Develop a process for soliciting and reviewing applications and for selecting persons to participate in the Program.

(5) Investigate and pursue other funding sources to supplement State funds, including federal, local, and private funding sources.

(6) Provide technical assistance to participating persons to assist with modifications of waste management systems and facilitate the timely transfer of technology among participating persons.

SECTION 2.(e) Advisory Committee. – The Director of the Division of Soil and Water Conservation may establish an advisory committee to assist the Division with the implementation of this act. If the Director establishes an advisory committee, the Director may direct the advisory committee to evaluate:

(1) Markets for by-products derived from swine waste and make recommendations for development of the markets, including identification of regulatory obstacles.

(2) Methods to encourage growers, integrators, and electric power suppliers to cooperate in the production and use of renewable energy or other marketable by-products derived from swine waste, including an examination of tax incentives, carbon sequestration credits, and trading mechanisms.

SECTION 2.(f) Report. – No later than 1 October of each year, the Division of Soil and Water Conservation in the Department of Environment and Natural Resources shall prepare a comprehensive report on the implementation of Sections 1, 2, and 3 of this act. The report shall be submitted to the Environmental Review Commission as a part of the report required by G.S. 143-215.10M. The first report required by this subsection shall be submitted to the Environmental Review Commission no later than 1 October 2008.

SECTION 3. Account. – There is hereby established the Swine Farm Waste Management System Conversion Account within the Division of Soil and Water Conservation of the Department of Environment and Natural Resources. Funds in the Account shall be used only as provided in subsection (b) of Section 2 of this act. The Account shall consist of funds appropriated to the Account by the General Assembly; any federal funds available for this purpose; and any grants, gifts, or contributions to the State for this purpose. Funds in the Account shall not revert.

SECTION 4.(a) Definitions. – The definitions set out in G.S. 143-215.10B and the following definitions apply to this section:

(1) "Commission" means the Utilities Commission.

(2) "Department" means the Department of Environment and Natural Resources.

(3) "Electric public utility" means an investor-owned public utility as defined in G.S. 62-3(23)a.1.

(4) "Permit holder" means a person who holds a permit issued under Article 21 of Chapter 143 of the General Statutes by the Environmental Management Commission for an animal waste management system that serves a swine farm.

(5) "Public Staff" means the Public Staff of the North Carolina Utilities Commission established pursuant to G.S. 62-15.

(6) "Swine farm" has the same meaning as in G.S. 106-802.

SECTION 4.(b) Program Established. – The Swine Farm Methane Capture Pilot Program is hereby established as a voluntary program to be administered jointly by the Department and the Commission.

SECTION 4.(c) Participant Selection. – An owner or operator of a swine farm who wishes to participate in the Swine Farm Methane Capture Pilot Program shall register with the Department and the Commission. From among those swine farms that

are registered, the Department and the Commission may select a total of up to 50 swine farms for participation in the pilot program over the life of the program. The Department and the Commission shall select swine farms for participation in the pilot program so as to achieve as nearly as possible a representative sample of the types and locations of swine farms in the areas served by electric public utilities in the State, types of methane capture and electric power generating systems, and in the order in which they register. In selecting swine farms for participation in the pilot program, the Department and the Commission may also consider the ability of the methane capture system to reduce the emissions of other pollutants, including ammonia. The Department and the Commission may select a swine farm for participation only if the swine farm meets or will meet all the following criteria:

(1) The permit holder has operated and maintained the animal waste management system in substantial compliance with the permit and all applicable federal and State laws, regulations, and rules.

(2) The lagoon is covered, partially covered, or otherwise modified in a manner that captures a significant portion of the methane emitted by the lagoon.

(3) The captured methane is used to generate electricity.

(4) The swine farm generates electric power that is available for purchase by the electric public utility that serves the swine farm on or before 1 September 2010.

(5) The electricity generated by the swine farm can be supplied to the distribution system of the electric public utility that serves the swine farm through an interconnection that meets the standards established by the Commission.

SECTION 4.(d) Implementation. – Each electric public utility that serves a swine farm that is selected for participation in the pilot program is required to purchase all electricity generated by the use of captured methane as a fuel by pilot program participants for seven years. The total of all electric power purchases under the program shall not exceed 25 megawatts at any point in time. The seven-year period begins on the date the swine farm first sells electricity to the electric public utility and ends seven years after the date on which the period begins. The Commission shall set a suggested purchase price that would allow program participants to recover reasonably and prudently incurred capital and operating costs and that would minimize the impact of the pilot program on ratepayers. The price of power purchased under the program shall be determined by agreement between each program participant and the electric public utility. Each purchase price agreement shall take into account the extent to which any capital or operating costs are paid to the program participant from any other source, including grants. A purchase price agreement may be revised at any time by agreement between the parties. In the event that a program participant and an electric public utility cannot agree on a purchase price, the Commission, with the advice of the Public Staff, shall set the purchase price. In no event, shall the suggested purchase price, an agreed upon purchase price, or a purchase price set by the Commission in the event that a program participant and an electric public utility cannot agree on a purchase price exceed eighteen cents (18¢) per kilowatt hour. The Commission, with the advice of the Public Staff, may review any agreement between a program participant and an electric public utility. All costs incurred by an electric public utility to comply with the provisions of this section may be recovered as costs of fuel pursuant to G.S. 62-133.2.

SECTION 4.(e) Adoption of Rules. – The Commission may adopt rules to implement this section as provided in Chapter 62 of the General Statutes. The Department may adopt rules to implement this section as provided in Chapter 150B of the General Assembly.

SECTION 4.(f) Effect of Section. – It is the intent of the General Assembly that this section applies only to the particular circumstances that are the subject of this section. This section does not establish a precedent with respect to purchase or sale of renewable energy.

SECTION 4.(g) Report. – The Department and the Commission shall jointly report to the Environmental Review Commission and the Joint Legislative Utility Review Committee on or before 1 January of each year on the implementation of this section. The report shall include a program evaluation based on an assessment of the costs and benefits of the program and any specific findings and recommendations, including any legislative proposals, that the Department and the Commission determine to be appropriate. The first report will be due 1 January 2009.

SECTION 5. Certain Agreements Not Affected. – This act shall not be construed to alter the obligations of any party to any of the following agreements:

(1) The agreement among the Attorney General of North Carolina; Smithfield Foods, Inc.; Brown's of North Carolina, Inc.; Carroll's Foods, Inc.; Murphy Farms, Inc.; Carroll's Foods of Virginia, Inc.; and Quarter M Farms, Inc., of 25 July 2000.

(2) The agreement between the Attorney General of North Carolina and Smithfield Foods, Inc., of 30 September 2000.

(3) The agreement among the Attorney General of North Carolina and Premium Standard Farms, Inc.; The Lundy Packing Company, Inc.; Dogwood Farms, Inc.; Dogwood Farms II, LLC; L&S Farms, a partnership; and L&H Farms, LLC, of 29 September 2000.

(4) The agreement between the Attorney General of North Carolina and Frontline Farmers, Inc., of 13 March 2002.

(5) The agreement among North Carolina State University, the Attorney General of North Carolina, and Smithfield Foods, Inc., of 30 September 2000, including an amendment of 12 February 2004.

SECTION 6. Effective Dates. – Section 3 of this act becomes effective 1 July 2007. All other sections of this act become effective 1 September 2007. Section 4 of this act expires 1 September 2017.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 11:30 a.m. on the 31st day of August, 2007.

Session Law 2007-524 **Senate Bill 1272**

AN ACT TO EXEMPT BIODIESEL THAT IS PRODUCED BY AN INDIVIDUAL FOR PERSONAL USE IN A PRIVATE PASSENGER VEHICLE FROM THE MOTOR FUEL EXCISE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.88 is amended by adding a new subdivision to read:

"§ **105-449.88. Exemptions from the excise tax.**

The excise tax on motor fuel does not apply to the following:

(1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the motor fuel is removed by a licensed distributor or a licensed exporter and the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state.

(1a) Motor fuel removed by transport truck from a terminal for export if the motor fuel is removed by a licensed distributor or licensed exporter, the supplier that is the position holder for the motor fuel sells the motor fuel to another supplier as the motor fuel crosses the terminal rack, the purchasing supplier or its customer receives the motor fuel at the terminal rack for export, and the supplier that is the position holder collects tax on the motor fuel at the rate of the motor fuel's destination state.

(2) Motor fuel sold to the federal government for its use.

(3) Motor fuel sold to the State for its use.

(4) Motor fuel sold to a local board of education for use in the public school system.

(5) Diesel that is kerosene and is sold to an airport.

(6) Motor fuel sold to a charter school for use for charter school purposes.

(7) Motor fuel sold to a community college for use for community college purposes.

(8) Motor fuel sold to a county or a municipal corporation for its use.

(9) Biodiesel that is produced by an individual for use in a private passenger vehicle registered in that individual's name pursuant to Chapter 20 of the General Statutes. For the purposes of this subdivision, the term 'private passenger vehicle' has the same meaning as in G.S. 20-4.01."

SECTION 2. The Revenue Laws Study Committee and the Joint Legislative Transportation Oversight Committee shall each study the issue of providing adequate funding for transportation infrastructure development and improvement. The studies shall include discussion of ways to ensure that the costs of road construction and maintenance are borne equitably by all motorists in light of ongoing shifts from the use of traditional motor fuels to the use of alternative fuels and technologies. The Committees shall make a report on this issue, including any recommendations or legislative proposals, to the 2008 Regular Session, 2007 General Assembly.

SECTION 3. Section 1 of this act becomes effective October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:31 a.m. on the 31st day of August, 2007.

Session Law 2007-525 **Senate Bill 864**

AN ACT TO AMEND THE CHIROPRACTIC PRACTICE ACT TO REQUIRE CRIMINAL RECORD CHECKS ON APPLICANTS FOR LICENSURE AS CHIROPRACTIC PHYSICIANS, TO PROHIBIT CHIROPRACTORS FROM

OFFERING ENTICEMENTS TO PROSPECTIVE PATIENTS, TO EXPAND THE GROUNDS FOR PROFESSIONAL DISCIPLINE OF CHIROPRACTORS; TO AMEND THE PERFUSIONIST LICENSURE ACT, AND TO MAKE CHANGES TO THE APPOINTING PROCESS FOR THE NORTH CAROLINA STATE BOARD OF OPTICIANS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-143.3. Criminal record checks of applicants for licensure.**

(a) Any person applying for licensure as a chiropractic physician in this State shall provide to the Board a fingerprint card in a format acceptable to the Board and a form signed by the applicant consenting to a criminal record check and the use of the applicant's fingerprints and such other identifying information as may be required by the State or national data banks. The Board shall submit these documents to the Department of Justice, along with a request for a criminal record check of the applicant.

(b) Upon receipt of the Board's submission, the Department of Justice shall commence the requested criminal record check. The Department of Justice shall forward a set of the applicant's fingerprints to the State Bureau of Investigation for a search of the State's criminal records, and the State Bureau of Investigation shall forward a set of the applicant's fingerprints to the Federal Bureau of Investigation for a search of national criminal records. The Department of Justice may charge the licensure applicant a fee for performing the criminal record check.

(c) The Board shall keep all information obtained from criminal record checks privileged and confidential, in accordance with applicable State law and federal guidelines, and the information shall not be a public record under Chapter 132 of the General Statutes. If the Board refuses to issue a license based in whole or part on information obtained from a criminal record check, the Board may disclose the relevant information to the applicant but shall not provide a copy of the record check to the applicant.

(d) When acting in good faith and in conformity with this section, the Board, its officers, and employees shall be immune from civil liability for initially refusing licensure based on information contained in a criminal record check supplied by the Department of Justice, even if the information relied upon is later shown to be erroneous."

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

"**§ 114-19.22. Criminal record checks of applicants for licensure as chiropractic physicians.**

The Department of Justice may provide to the State Board of Chiropractic Examiners from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 8 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of

Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 3. Article 8 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-154.4. Enticements prohibited.**

(a) For purposes of this section, an enticement is anything of monetary value offered by a chiropractor to a prospective patient as an incentive to enter treatment. Except as permitted in subsection (b) of this section, it shall be an unlawful rebate, in violation of G.S. 90-154(b)(12), for a chiropractor to offer an enticement to a prospective patient if, at the time the offer is made, the chiropractor knows or has reason to believe that the prospective patient's treatment expenses will be paid in whole or part by an insurer or other third-party payor.

(b) Unless prohibited by other State or federal law, the following marketing practices shall not be construed as violations of subsection (a) of this section:

(1) Free or reduced rates, services, examinations, or treatments advertised and delivered in conformity with G.S. 90-154.1.

(2) Cash or point-of-service discounts not more than 30 percentage points lower than the charges customarily billed to third-party payors.

(3) Prepaid wellness plans covering only services that can be performed entirely by the offering chiropractor or the chiropractor's staff within the confines of the chiropractor's office.

(4) Merchandise with a value of not more than ten dollars ($10.00) given to a prospective patient for promotional purposes."

SECTION 4. G.S. 90-154(b) is amended by adding a new subdivision to read:

"(b) Any one of the following is grounds for disciplinary action by the Board under subsection (a):

…

(21) Committing an act on or after October 1, 2007, which demonstrates a lack of good moral character which would have been a basis for denying a license under G.S. 90-143(b)(1), had it been committed before application for a license."

SECTION 5. G.S. 90-682(2) reads as rewritten:

"§ **90-682. Definitions.**

The following definitions apply in this Article:

…

(2) Committee. – The ~~North Carolina Perfusion Advisory Committee.~~Perfusionist Advisory Committee of the North Carolina Medical Board.

…."

SECTION 6. G.S. 90-682.1 reads as rewritten:

"§ **90-682.1. Medical Board approval required.**

(a) The Committee shall report to the Medical Board all actions taken by the Committee pursuant to this Article, except for actions taken by the Committee pursuant to G.S. 90-684. No action by the Committee is effective unless the action is approved by the Medical Board. The Medical Board may also rescind or ~~supercede,~~supersede, in

whole or in part, any action taken by the Committee in carrying out the provisions of this Article, except for actions taken by the Committee pursuant to G.S. 90-684. In rescinding or superseding an action by the Committee, the Board may remand the matter back to the Committee with instructions to perform some act consistent with this Article or Article 1 of Chapter 90. Members of the Medical Board may be selected by the President of the Board to participate in the matter that is the subject of the Order remanding the matter back to the Committee.

(b) The Board may waive any requirements of this Article consistent with G.S. 90-12.2."

SECTION 7. G.S. 90-684 is amended by adding a new subsection to read:

"(h) Qualified Immunity. – The Committee and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law. A person, partnership, firm, corporation, association, authority, or other entity acting in good faith without fraud or malice shall be immune from civil liability for (i) reporting, investigating, or providing an expert medical opinion to the Committee regarding the acts and omissions of a licensee or applicant that violates the provisions of G.S. 90-691(a) or any other provision of law relating to the fitness of a licensee or applicant to practice perfusion and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. A person shall not be held liable in any civil proceeding for testifying before the Committee in good faith and without fraud or malice in any proceeding involving a violation of G.S. 90-961(a) or any other law relating to the fitness of an applicant or licensee to practice perfusion, or for making a recommendation to the Committee in the nature of peer review, in good faith and without fraud and malice."

SECTION 8. G.S. 90-685 reads as rewritten:

"§ **90-685. Powers of the Committee.**

The Committee shall have the power and duty to:

(1) Administer this Article.

(2) Issue interpretations of this Article.

(3) Adopt, amend, or repeal rules as may be necessary to carry out the provisions of this Article.

(4) Employ and fix the compensation of personnel that the Committee determines is necessary to carry into effect the provisions of this Article and incur other expenses necessary to effectuate this Article.

(4a) Establish the standards for qualifications and fitness of applicants for licensure, provisional licensure, licensure renewal, and reciprocal licensure.

(5) Determine the qualifications and fitness of applicants for licensure, provisional licensure, licensure renewal, and reciprocal licensure.

(6) Issue, renew, deny, suspend, or revoke licenses, order probation, issue reprimands, and carry out any other disciplinary actions authorized by this Article.

(7) Set fees for licensure, provisional licensure, reciprocal licensure, licensure renewal, and other services deemed necessary to carry out the purposes of this Article.

(8) Establish continuing education requirements for licensees.

(9) Establish a code of ethics for licensees.

(10) Maintain a current list of all persons who have been licensed under this Article.

(11) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensees exist.

(12) Maintain a record of all proceedings and make available to all licensees and other concerned parties an annual report of all Committee action.

(13) Adopt a seal containing the name of the Committee for use on all official documents and reports issued by the Committee.

(14) Summon and issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the Committee.

(15) Order that any patient records, documents, or other material concerning any matter to be heard before or inquired into by the Committee shall be produced before the Committee or made available for inspection, notwithstanding any other provisions of law providing for the application of any physician-patient privilege with respect to such records, documents, or other material. The Committee shall withhold from public disclosure the identity of a patient, including information relating to dates and places of treatment, or any other information that would tend to identify the patient, unless the patient or the representative of the patient expressly consents to the disclosure.

(16) Order a licensee whose health and effectiveness have been significantly impaired by alcohol, drug addiction, or mental illness to attend and successfully complete a treatment program as deemed necessary and appropriate."

SECTION 9. Article 40 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-685.1. Confidentiality of Committee investigative information.**

(a) All records, papers, investigative files, investigative reports, other investigative information, and other documents containing information in the possession of or received or gathered by the Committee or its members or employees as a result of investigations, inquiries, or interviews conducted in connection with a licensing, complaint, or disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Committee, its employees, or agents involved in the application for license or discipline of a license holder, except as provided in subsection (b) of this section. For purposes of this subsection, investigative information includes information relating to the identity of, and a report made by, a perfusionist, or other person performing an expert review for the Committee.

(b) The Committee shall provide the licensee or applicant with access to all information in its possession that the Committee intends to offer into evidence in presenting its case in chief at the contested hearing on the matter, subject to any privilege or restriction set forth by rule, statute, or legal precedent, upon written request from a licensee or applicant who is the subject of a complaint or investigation, or from the licensee's or applicant's counsel, unless good cause is shown for delay. The Committee is not required to provide any of the following:

(1) A Committee investigative report.

(2) The identity of a nontestifying complainant.

(3) Attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Rules of Civil Procedure or the Rules of Evidence."

SECTION 10. G.S. 90-690 reads as rewritten:

"§ **90-690. Renewal of licenses.**

(a) All licenses to practice perfusion shall expire two years after the date they were issued. The Committee shall send a notice of expiration to each licensee at his or her last known address at least 30 days prior to the expiration of his or her license. All applications for renewal of unexpired licenses shall be filed with the Committee and accompanied by proof satisfactory to the Committee that the applicant has completed the continuing education requirements established by the Committee and the renewal fee as required by G.S. 90-689.

(b) An application for renewal of a license that has been expired for less than three years shall be accompanied by proof satisfactory to the Committee that the applicant has current certification as defined by G.S. 90-682(1), has satisfied the continuing education requirements established by the Committee and has paid the renewal and late fees required by G.S. 90-689. A license that has been expired for more than three years shall not be renewed, but the applicant may apply for a new license by complying with the current requirements for licensure under this Article."

SECTION 11. Article 40 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-690.1. Maintenance of certification to maintain licensure.**

(a) After December 31, 2007, all licensed perfusionists who are licensed under this Article shall maintain certification as defined in G.S. 90-682(1) in order to maintain licensure. If certification shall lapse at any time, the Committee may initiate disciplinary action under G.S. 90-691, or upon a finding consistent with G.S. 150B-3(c), may order the summary suspension of the perfusionist's license.

(b) The provisions of this section shall not apply to perfusionists who were licensed under Section 2 of S. L. 2005-267."

SECTION 12. G.S. 90-691 reads as rewritten:

"§ **90-691. ~~Suspension, revocation, and refusal to renew.~~Disciplinary authority.**

(a) The Committee may place on probation with or without conditions, impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public letters of concern, require satisfactory completion of treatment programs or remedial or educational training, deny, refuse to renew, suspend, or revoke an application or license ~~or order probation or issue a reprimand~~ if the applicant or licensee:

(1) Gives false information or withholds material information from the Committee in procuring or attempting to procure a license.

(2) Gives false information or withholds material information from the Committee during the course of an investigation conducted by the Committee.

(3) Has been convicted of or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to practice perfusion as defined in this Article or that indicates the person has deceived, defrauded, or endangered the public.

(4) Has a habitual substance abuse or mental impairment that interferes with his or her ability to provide appropriate care as established by this Article or rules adopted by the Committee. The Committee is

empowered and authorized to require a licensee to submit to a mental or physical examination by persons designated by the Committee before or after charges may be presented against the licensee, and the results of the examination shall be admissible in evidence in a hearing before the Committee.

(5) Has demonstrated gross negligence, incompetency, or misconduct in the practice of perfusion as defined in this Article. The Committee may, upon reasonable grounds, require a licensee to submit to inquiries or examinations, written or oral, as the Committee deems necessary to determine the professional qualifications of the licensee.

(6) Has had an application for licensure or a license to practice perfusion in another jurisdiction denied, suspended, or revoked for reasons that would be grounds for similar action in this State.

(7) Has willfully violated any provision of this Article or rules adopted by the Committee.

(8) Has allowed his or her certification to lapse.

(b) The taking of any action authorized under subsection (a) of this section may be ordered by the Committee after a hearing is held in accordance with Article 3A of Chapter 150B of the General Statutes. The Committee may reinstate a revoked license if it finds that the reasons for revocation no longer exist and that the person can reasonably be expected to perform the services authorized under this Article in a safe manner."

SECTION 13. G.S. 90-238 reads as rewritten:

"§ **90-238. North Carolina State Board of Opticians created; appointment and qualification of members.**

The North Carolina State Board of Opticians is created. The Board's duty is to carry out the purposes and enforce the provisions of this Article. The Board shall consist of seven members appointed by the Governor as follows:

(1) Five licensed dispensing opticians, each of whom shall serve three-year terms;

(2) Two residents of North Carolina who are not licensed as dispensing opticians, physicians, or optometrists, who shall serve three-year terms.

Each member of the Board shall serve until the member's successor is appointed and qualifies. No person shall serve on this Board for more than two complete consecutive terms. Before beginning office, each member of the Board shall take all oaths prescribed for other State officers in the manner provided by law, which oaths shall be filed in the office of the Secretary of State. The Governor may remove any member of the Board for good cause shown, may appoint members to fill unexpired terms, and must make optician appointments from a list of three nominees for each vacancy submitted by the Board as a result of an election conducted by the Board each year and open to all licensees. In naming candidates for election, the Board must ensure that its candidates reflect the composition of the State with regards to gender, ethnic, racial, and age composition. If the Board fails to fulfill its requirements under this section, the Governor may appoint a licensed optician to fill a vacancy on the Board."

SECTION 14. The Revenue Laws Study Committee may study whether to continue the sales tax exemption for nutritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment.

SECTION 15. Sections 1 through 13 of this act become effective October 1, 2007. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:32 a.m. on the 31st day of August, 2007.

Session Law 2007-526 **Senate Bill 831**

AN ACT STREAMLINING LOCAL GOVERNMENT REGULATION OF WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES AND THE COLLOCATION OF WIRELESS FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 160A of the General Statutes is amended by adding a new Part to read:

"Part 3E. Wireless Telecommunications Facilities.

"**§ 160A-400.50. Purpose and compliance with federal law.**

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare. The following standards shall apply to a city's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, and in accordance with the rules promulgated by the Federal Communications Commission.

"**§ 160A-400.51. Definitions.**

The following definitions apply in this Part.

(1) Antenna. – Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Application. – A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.

(3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.

(4) Collocation. – The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles, and water tanks.

(5) Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

(5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 160A-400.52. Construction of wireless facilities and wireless support structures.**

(a) A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

(b) Any person that proposes to construct or modify a wireless support structure or wireless facility within the planning and land-use jurisdiction of a city must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A city's review of an application for the placement, construction, or modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the city may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. In reviewing an application, the city may review the following:

(1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved structure can reasonably be used for the antenna placement instead of the construction of a new tower, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower,

replacement tower, or collocation is necessary to provide the applicant's designed service.

(3) A city may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing structure or structures within the applicant's search ring. Collocation on an existing structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the tower is unwilling to enter into a contract for such use at fair market value. Cities may require information necessary to determine whether collocation on existing structures is reasonably feasible.

(d) A collocation application entitled to streamlined processing under G.S. 160A-400.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(e) The city shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53 and within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A city may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site or modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a city on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the city in connection with the regulatory review authorized under this section. The foregoing does not prohibit a city from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant.

(g) The city may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A city shall not deny an initial land-use or zoning permit based on such documentation. A city may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The city may not require the placement of wireless support structures or wireless facilities on city owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on city owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"**§ 160A-400.53. Collocation of wireless facilities.**

(a) Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit

requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.

(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:

(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.

(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.

(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.

(4) The additional wireless facilities comply with all federal, State and local safety requirements.

(5) The collocation does not exceed the applicable weight limits for the wireless support structure.

SECTION 2. Article 18 of Chapter 153A of the General Statutes is amended by adding a new Part to read:

"Part 3B. Wireless Telecommunications Facilities.

"**§ 153A-349.50. Purpose and compliance with federal law.**

(a) Purpose. – The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare. The following standards shall apply to a county's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) Compliance with the Federal Communications Act. – The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, and in accordance with the rules promulgated by the Federal Communications Commission.

"**§ 153A-349.51. Definitions.**

The following definitions apply in this Part.

(1) Antenna. – Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Application. – A formal request submitted to the county to construct or modify a wireless support structure or a wireless facility.

(3) Building permit. – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.

(4) Collocation. – The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles, and water tanks.

(5) Equipment enclosure. – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

(5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(6) Land development regulation. – Any ordinance enacted pursuant to this Part.

(7) Search ring. – The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(9) Wireless facility. – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

(10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"**§ 153A-349.52. Construction of wireless facilities and wireless support structures.**

(a) A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

(b) Any person that proposes to construct or modify a wireless support structure or wireless facility within the planning and land-use jurisdiction of a county must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A county's review of an application for the placement, construction, or modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the county may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. In reviewing an application the county may review the following:

(1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or previously approved structure can reasonably be used for the antenna placement instead of the construction of a new tower, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the applicant's designed service.

(3) A county may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing structure or structures within the applicant's search ring. Collocation on an existing structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the tower is unwilling to enter into a contract for such use at fair market value. Counties may require information necessary to determine whether collocation on existing structures is reasonably feasible.

(d) A collocation application entitled to streamlined processing under G.S. 153A-349.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(e) The county shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 153A-349.53 and within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(f) A county may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site or modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a county on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the county in connection with the regulatory review authorized under this section. The foregoing does not prohibit a county from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant

charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant.

(g) The county may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A county shall not deny an initial land-use or zoning permit based on such documentation. A county may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The county may not require the placement of wireless support structures or wireless facilities on county owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on county owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"**§ 153A-349.53. Collocation of wireless facilities.**

(a) Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.

(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:

(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.

(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.

(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.

(4) The additional wireless facilities comply with all federal, State, and local safety requirements.

(5) The collocation does not exceed the applicable weight limits for the wireless support structure.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act becomes effective December 1, 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:35 a.m. on the 31st day of August, 2007.

Session Law 2007-527 **Senate Bill 540**

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS, MOTOR FUELS TAX LAWS, AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53B-4(2) reads as rewritten:

"(2) Authorization under G.S. ~~105-251, 105-251.1,~~ 105-251 or G.S. 105-258."

SECTION 2. G.S. 105-40(7a) reads as rewritten:

"(7a) All exhibitions, performances, and entertainments promoted and managed by 'a nonprofit arts organization.' ~~organization' that is exempt from income tax under G.S. 105-130.11(a)(3).~~ This exemption does not apply to athletic events. A 'nonprofit arts organization' is an organization that meets both of the following requirements:

a. It is exempt from income tax under G.S. 105-130.11(a)(3).

b. Its primary purpose is to offer choral and theatrical performances."

SECTION 3.(a) G.S. 105-40(10) reads as rewritten:

"(10) Arts festivals held by a person that is exempt from income tax under Article 4 of this Chapter and that meets the following conditions:

a. The person holds no more than two arts festivals during a calendar year.

b. Each of the person's arts festivals last no more than seven consecutive days.

c. The arts festivals are held outdoors on public property and involve a variety of exhibitions, entertainments, and activities."

SECTION 3.(b) G.S. 105-40(11) reads as rewritten:

"(11) Community festivals held by a person who is exempt from income tax under Article 4 of this Chapter and that meets all of the following conditions:

a. The person holds no more than one community festival during a calendar year.

b. The community festival lasts no more than seven consecutive days.

c. The community festival involves a variety of exhibitions, entertainments, and activities, the majority of which are held outdoors and are open to the public."

SECTION 4. G.S. 105-113.82(a) reads as rewritten:

"(a) Amount, Method. – The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March ~~31, less the amount of the net proceeds credited to the Department of Commerce under G.S. 105-113.81A,~~ 31 to the counties ~~and~~ or cities in which the retail sale of these beverages is authorized in the entire county or city:

(1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23¾%);
(2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and
(3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

For purposes of this subsection, 'net amount' means gross collections less refunds and amounts credited to the Department of Commerce under G.S. 105-113.81A. If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributed under subdivisions (1), (2), and (3) shall be computed separately."

SECTION 5. G.S. 105-129.16E(b) reads as rewritten:

"(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its ~~business~~ apportionable income to this State."

SECTION 6. G.S. 105-129.87(b) reads as rewritten:

"(b) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier designation of the county where the new jobs are created during the taxable year. If the taxpayer creates new jobs at more than one eligible establishment in a county during the taxable year, the threshold applies to the aggregate number of new jobs created at all eligible establishments within the county during that year. If the taxpayer creates new jobs at eligible establishments in different counties during the taxable year, the threshold applies separately to the aggregate number of new jobs created at eligible establishments in each county. If the taxpayer creates new jobs in an urban progress zone or an agrarian growth zone, the applicable threshold is the one for a development tier one area. New jobs created in an urban progress zone or an agrarian growth zone are not aggregated with jobs created at any other eligible establishments regardless of county.

Area Development Tier	Threshold
Tier One	5
Tier Two	10
Tier Three	15"

SECTION 7. G.S. 105-129.88(c) reads as rewritten:

"(c) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier where the eligible business property is placed in service during the taxable year. If the taxpayer places business property in service in an urban progress zone or an agrarian growth zone, the applicable threshold is the one for a development tier one area. Business property placed in service in an urban progress zone or an agrarian growth zone is not aggregated with business property placed in service at any other eligible establishments regardless of county. If the

taxpayer places eligible business property in service at more than one establishment in a county during the taxable year, the threshold applies to the aggregate amount of eligible business property placed in service during the taxable year at all establishments in the county. If the taxpayer places eligible business property in service at establishments in different counties, the threshold applies separately to the aggregate amount of eligible business property placed in service in each county. If the taxpayer places eligible ~~machinery and equipment~~business property in service at an establishment over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Development Tier	**Threshold**
Tier One	$ -0-
Tier Two	1,000,000
Tier Three	2,000,000"

SECTION 8. G.S. 105-129.88(e) reads as rewritten:

"(e) Transferred Property. – If, in one of the four years in which the installment of a credit accrues, the business property with respect to which the credit was claimed is moved to a county in a higher-numbered development tier or ~~to~~ out of an urban progress zone or an agrarian growth zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the business property had been placed in service initially in the area to which it was moved. If, in one of the four years in which the installment of a credit accrues, the business property with respect to which a credit was claimed is moved to a county in a lower-numbered development tier or an urban progress zone or an agrarian growth zone, the remaining installments of the credit shall be calculated as if the business property had been placed in service initially in the area to which it was moved."

SECTION 9.(a) G.S. 105-130.48(e) reads as rewritten:

"(e) Documentation of Credit. – ~~To~~ Upon request, to support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer."

SECTION 9.(b) G.S. 105-151.30(d) reads as rewritten:

"(d) Documentation of Credit. – ~~To~~ Upon request, to support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer."

SECTION 10. G.S. 105-164.13(52) reads as rewritten:

"(52) Items subject to sales and use tax under G.S. 105-164.4, other than ~~electricity and~~ electricity, telecommunications service, and ancillary service as defined in G.S. 105-164.4, if all of the following conditions are met:

~~(a)~~a. The items are purchased by a State agency for its own use and in accordance with G.S. 105-164.29A.

~~(b)~~b. The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check,

electronic deposit, credit card, procurement card, or credit account of the State agency.

~~(c)~~c. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number."

SECTION 11. G.S. 105-164.16(b1) reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for ~~more than~~at least one hundred dollars ($100.00) but less than ten thousand dollars ($10,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return."

SECTION 12. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases tangible personal ~~property~~property, excluding purchases of boats and aircraft, outside the State for a nonbusiness purpose is due on an annual basis. For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14."

SECTION 13.(a) G.S. 105-187.51B reads as rewritten:

"§ **105-187.51B. Tax imposed on certain recyclers and research and development companies.**

(a) Tax. – A privilege tax is imposed on the following:

(1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:

a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

b. Port and dock facilities.

c. Rail equipment.

d. Material handling equipment.

(2) A research and development company in the physical, engineering, and life sciences that is included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company in the research and development of tangible personal property.

c. Would be considered mill machinery or mill machinery parts or accessories under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars ($80.00) per article."

SECTION 13.(b) This section becomes effective July 1, 2007.

SECTION 14. G.S. 105-187.52 reads as rewritten:

"§ **105-187.52. Administration.**

(a) Administration. – The privilege taxes imposed by this Article are in addition to the State use tax. Except as otherwise provided in this Article, the collection and administration of these taxes is the same as the State use tax imposed by Article 5 of this Chapter.

(b) Credit. – A credit is allowed against the tax imposed by this Article for the amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax paid to another state. The credit allowed by this subsection does not apply to tax paid to another state that does not grant a similar credit for the privilege tax paid in North Carolina.

(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this Article."

SECTION 15. G.S. 105-258(a) reads as rewritten:

"(a) Secretary May Examine Data and Summon Persons. The Secretary of Revenue, for the purpose of ascertaining the correctness of any return, making a return where none has been made, or determining the liability of any person for ~~any tax imposed by this Subchapter,~~a tax, or collecting any such tax, shall have the power to examine, personally, or by an agent designated by him, any books, papers, records, or other data which may be relevant or material to such inquiry, and the Secretary may summon the person liable for the tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may administer oaths to such person or persons. If any person so summoned refuses to obey such summons or to give testimony when summoned, the Secretary may apply to the Superior Court of Wake County for an order requiring such person or persons to comply with the summons of the Secretary, and the failure to comply with such court order shall be punished as for contempt."

SECTION 16.(a) G.S. 105-449.52 reads as rewritten:

"§ **105-449.52. Civil penalties applicable to motor carriers.**

(a) Penalty. – A motor carrier who does any of the following is subject to a civil penalty:

(1) Operates in this State or causes to be operated in this State a motor vehicle that either fails to carry the registration card required by this Article or fails to display an identification marker in accordance with this Article. The amount of the penalty is one hundred dollars ($100.00).

(2) Is unable to account for identification markers the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars ($100.00) for each identification marker the carrier is unable to account for.

(3) Displays an identification marker on a motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars ($1,000) for each identification marker unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the identification

marker and the motor carrier displaying the unlawfully obtained identification marker are jointly and severally liable for the penalty under this subdivision.

~~A~~

(a1) Payment. – A penalty imposed under this section is payable to the ~~Department of Revenue, the Department of Crime Control and Public Safety, or the Division of Motor Vehicles.~~ agency that assessed the penalty. When a motor vehicle is found to be operating without a registration card or an identification marker or with an identification marker the Secretary did not issue for the vehicle, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty.

(b) Hearing. – The procedure set out in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

SECTION 16.(b) G.S. 105-449.115(f) reads as rewritten:

"(f) Sanctions Against Transporter. – The following acts are grounds for a civil ~~penalty payable to the Department of Crime Control and Public Safety or the Department of Revenue:~~penalty:

(1) Transporting motor fuel in a railroad tank car or transport truck without a shipping document or with a false or an incomplete shipping document.

(2) Delivering motor fuel to a destination state other than that shown on the shipping document.

The penalty ~~imposed under this subsection~~ is payable to the agency that assessed the penalty and is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars ($5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed."

SECTION 16.(c) G.S. 105-449.115A(c) reads as rewritten:

"(c) Sanctions. – Transporting motor fuel in a tank wagon without an invoice, bill of sale, or shipping document containing the information required by this section is grounds for a civil ~~penalty payable to the Department of Crime Control and Public Safety or the Department of Revenue.~~penalty. The penalty ~~imposed under this subsection~~ is payable to the agency that assessed the penalty and is payable by the person in whose name the tank wagon is registered. The amount of the penalty is one thousand dollars ($1,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed."

SECTION 16.(d) G.S. 105-449.117(b) reads as rewritten:

"(b) Civil Penalty. – The civil penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue~~ agency that assessed the penalty and is payable by the person in whose name the highway vehicle is registered. The amount of the penalty depends on the amount of fuel in the supply tank of the highway vehicle. The penalty is the greater of one thousand dollars ($1,000) or five times the amount of motor fuel tax payable on the fuel in the supply tank. A penalty imposed under this section is in addition to any motor fuel tax assessed."

SECTION 16.(e) G.S. 105-449.118 reads as rewritten:

"§ **105-449.118. Civil penalty for buying or selling non-tax-paid motor fuel.**

A person who dispenses non-tax-paid motor fuel into the supply tank of a highway vehicle or who allows non-tax-paid motor fuel to be dispensed into the supply tank of a highway vehicle is subject to a civil penalty of two hundred fifty dollars ($250.00) per occurrence.

The penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue.~~ agency that assessed the penalty. Failure to pay a penalty imposed under this section is grounds under G.S. 20-88.01(b) to withhold or revoke the registration plate of the motor vehicle into which the motor fuel was dispensed."

SECTION 16.(f) G.S. 105-449.118A reads as rewritten:

"§ **105-449.118A. Civil penalty for refusing to allow the taking of a motor fuel sample.**

A person who refuses to allow the taking of a motor fuel sample is subject to a civil penalty of one thousand dollars ($1,000). The penalty is payable to the ~~Department of Transportation, Division of Motor Vehicles, or the Department of Revenue.~~ agency that assessed the penalty. If the refusal is for a sample to be taken from a vehicle, the penalty is payable by the person in whose name the vehicle is registered. If the refusal is for a sample to be taken from any other storage tank or container, the penalty is payable by the owner of the container."

SECTION 17.(a) G.S. 105-449.72(a) reads as rewritten:

"(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:

(1) For an applicant for a license as any of the following, the amount is two million dollars ($2,000,000):
   a. A refiner.
   b. A terminal operator.
   c. A supplier that is a position holder or a person that receives motor fuel pursuant to a two-party exchange.
   d. A bonded importer.
   e. A permissive supplier.

(2) For an applicant for a license as any of the following, the amount is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. The amount may not be less than two thousand dollars ($2,000) and may not be more than five hundred thousand dollars ($500,000):
   ~~a. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange.~~
   b. An occasional importer.
   c. A tank wagon importer.
   d. A distributor.
   e. Repealed by Session Laws 1997-60, s. 5, effective October 5, 1997.

(3) For an applicant for a license ~~as a blender,~~ as any of the following, a bond is required only if the applicant's average expected annual tax

liability under this Article, as determined by the Secretary, is at least two thousand dollars ($2,000). When a bond is required, the bond amount is the same as under subdivision (2) of this subsection.

a. A blender.

b. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange."

SECTION 17.(b) This section becomes effective October 1, 2007.

SECTION 18.(a) G.S. 105-449.115(g) reads as rewritten:

"(g) Penalty Defense. – Compliance with the conditions set out in this subsection is a defense to a civil penalty imposed under subsection (f) of this section as a result of the delivery of fuel to a state other than the destination state printed on the shipping document for the fuel. The Secretary must waive a penalty imposed against a person under that subsection if the person establishes a defense under this subsection. The conditions for the defense are:

(1) The person notified the Secretary of the diversion ~~within seven days after the diversion occurred~~ and received a confirmation number for the ~~diversion.~~diversion before the imposition of the penalty.

(2) Tax was timely paid on the diverted ~~fuel.~~fuel, unless the person is a motor fuel transporter."

SECTION 18.(b) This section is effective when it becomes law and applies to penalties assessed on or after that date and to refund requests that have not been finally determined as of that date.

SECTION 19. G.S. 115D-31.3(j) reads as rewritten:

"(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is ~~located:~~located meets all of the following:

(1) Is designated as a Tier 1 or Tier 2 county in accordance with~~G.S. 105-129.3;~~ G.S. 143B-437.08.

(2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar ~~year; and~~year.

(3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

SECTION 20. G.S. 119-17 is repealed.

SECTION 21.(b) Section 39 of Part IX of Chapter 908 of the 1983 Session Laws reads as rewritten:

"**Sec. 39.** Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed

on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both."

SECTION 21.(c) Subsection (a) of Section 26 of Part VII of Chapter 908 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(d) Subsection (a) of Section 4 of Chapter 988 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(e) Subsection (a) of Section 3 of Chapter 1055 of the 1983 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(f) Section 10 of Part IV of Chapter 570 of the 1985 Session Laws reads as rewritten:

"**Sec. 10.** Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by

the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars ($10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both."

SECTION 21.(g) Subsection (a) of Section 4 of Chapter 857 of the 1985 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by Onslow County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(j) Subsection (a) of Section 4 of Chapter 929 of the 1985 Session Laws as amended by S.L.1985-929 reads as rewritten:

"(a) Any tax levied under this act is due and payable to the levying jurisdiction in monthly installments on or before the ~~25th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~25th~~ 20th day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(k) Subsection (c) of Section 1 of Chapter 969 of the 1985 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(l) Subsection (c) of Section 1 of Chapter 140 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer the tax levied under this act. The tax shall be due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax is collected. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals subject to the tax. A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(m) Subsection (c) of Section 1 of Chapter 141 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(n) Subsection (c) of Section 1 of Chapter 143 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(o) Subsection (c) of Section 1 of Chapter 170 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(p) Subsection (c) of Section 5 of Chapter 172 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which

the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(q) Subsection (a) of Section 3 of Chapter 188 of the 1987 Session Laws reads as rewritten:

"(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(r) Subsection (c) of Section 1 of Title I of Chapter 460 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The Town shall administer a tax levied under this section. A tax levied under this section is due and payable to the Town revenue collector in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the Town. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied."

SECTION 21.(s) Subsection (c) of Section 1 of Chapter 472 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(t) Subsection (c) of Section 1 of Chapter 484 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(u) Subsection (c) of Section 1 of Chapter 538 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly

installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(v) Subsection (c) of Section 1 of Chapter 561 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(w) Subsection (c) of Section 1 of Chapter 618 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(x) Subsection (a) of Section 4 of Chapter 647 of the 1987 Session Laws reads as rewritten:

"(a) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(y) Subsection (c) of Section 1 of Chapter 950 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(z) Subsection (c) of Section 1 of Chapter 979 of the 1987 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(aa) Subsection (c) of Section 1 of Chapter 173 of the 1989 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(cc) Subsection (e) of Section 8 of Chapter 821 of the 1989 Session Laws reads as rewritten:

"(e) Administration. Mecklenburg County and the City of Charlotte shall determine by agreement which of them will administer and collect each of the taxes levied pursuant to this Part. In the event an agreement cannot be reached, then any tax levied pursuant to this Part shall be administered and collected by Mecklenburg County. The local administrative authority may promulgate additional rules and regulations necessary for the implementation of this Part.

The taxes levied pursuant to this Part are due and payable to the local administrative authority as agent for the taxing entity in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return to the local administrative authority. The local administrative authority shall design, print, and furnish to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

A return filed with the local administrative authority under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(dd) Subsection (c) of Section 1 of Chapter 163 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ee) Subsection (c) of Section 1 of Chapter 230 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ff) Subsection (c) of Section 1 of Chapter 392 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied."

SECTION 21.(gg) Subsection (c) of Section 5 of Chapter 577 of the 1991 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(hh) Section 9 of Chapter 594 of the 1991 Session Laws, as amended by Section 5 of Chapter 458 of the 1995 Session Laws, reads as rewritten:

"Sec. 9. Administration. – The county shall administer and collect the taxes levied pursuant to this act. Wake County may contract with the City of Raleigh to perform these functions.

The taxes levied pursuant to this act are due and payable to the county in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return to the county. The county shall design, print, and furnish on request to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Returns filed with the county pursuant to this act are not public records and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 21.(ii) Subsection (c) of Section 1 of Chapter 453 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(jj) Subsection (c) of Section 1 of Chapter 549 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(ll) Subsection (c) of Section 1 of Chapter 648 of the 1993 Session Laws reads as rewritten:

"(c) Administration. The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(mm) Subsection (c) of Section 1 of Chapter 695 of the 1993 Session Laws reads as rewritten:

"(c) Administration.

The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~fifteenth~~ 20th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the town under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law."

SECTION 21.(nn) Subsection (c) of Section 1 of Chapter 530 of the 1995 Session Laws reads as rewritten:

"(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the ~~15th~~ 20th day of the month following the month in which

the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 21.(oo) This section becomes effective January 1, 2008.

SECTION 22.(a) Section 9 of S.L. 2005-294 is repealed.

SECTION 22.(b) Section 13 of S.L. 2005-294, as amended by Section 31.5 of S.L. 2006-259, reads as rewritten:

"**SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006. Sections 1, 2, 3, 5, 6, 7, ~~9,~~ 10, and 11 of this act become effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. Sections 12 and 13 of this act are effective when they become law. Nothing in this act shall require the General Assembly to appropriate funds to implement it for the biennium ending June 30, 2007."

SECTION 22.(c) G.S. 105-330.10 reads as rewritten:

"§ **105-330.10. Disposition of interest.**

~~Sixty percent (60%) of the first month's~~The interest collected on unpaid ~~taxes~~ registration fees pursuant to G.S. 105-330.4 shall be transferred on a monthly basis to the ~~Combined Motor Vehicle and Registration Account created within the Treasurer's Office.~~North Carolina Highway Fund for technology improvements within the Division of Motor Vehicles. ~~Interest generated by the funds in the Combined Motor Vehicle and Registration Account shall be credited to the Account. The Office of State Budget and Management shall direct the Treasurer to distribute the funds in the Account to the Division of Motor Vehicles for the purpose of developing and implementing an integrated computer system within the Division of Motor Vehicles that would allow for the combined assessment, billing, and collection of property taxes on motor vehicles and the issuance of registration plates. Funds in the Account shall not be transferred by the Office of State Budget and Management and appropriated by the General Assembly until the Department of Transportation and the North Carolina Association of County Commissioners reach agreement on a project plan for the integrated system. The Treasurer shall report to the Revenue Laws Study Committee semiannually with the first report due by April 30, 2006. The report shall contain a detailed description of the amount of moneys transferred to the Account and distributed from the Account. Any funds remaining in the Account after the integrated computer system has been certified to be in operation shall be distributed to the local governments on a pro rata basis determined by the first month's interest collected on the unpaid taxes on classified motor vehicles and paid into the Account by each local government.~~"

SECTION 22.(d) Subsection (c) of this section becomes effective January 1, 2010. The remainder of this section is effective when it becomes law.

SECTION 23. The introductory language of Section 6 of S.L. 2006-128 reads as rewritten:

"**SECTION 6.** G.S. ~~153A-215(g)~~153A-155(g) reads as rewritten:"

SECTION 24. Section 33 of S.L. 2006-162 reads as rewritten:

"**SECTION 33.** ~~Section 4~~Sections 4(a) and 4(b) of this act ~~is~~ are effective for taxable years beginning on or after January 1, 2006. Section 13 of this act becomes

effective July 1, 2007, and applies to motor fuel transported on or after that date. Sections 14, 15, and 17 of this act become effective January 1, 2007, and apply to motor fuel purchased on or after that date. An exempt card or code will not be valid for sales of motor fuel at the terminal rack on or after January 1, 2007. Section 26 of this act is effective when it becomes law and applies to the estates of decedents dying on or after January 1, 2005. Section 32 of this act becomes effective January 1, 2007. The remainder of this act is effective when it becomes law."

SECTION 25. Sec. 8.4 of Chapter 692 of the 1989 Session Laws is repealed.

SECTION 26.(a) G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges ~~with respect to which credits were taken.~~assessed for the taxable year.

(3) The total cost to the General Fund of the credits taken."

SECTION 26.(b) G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges ~~with respect to which credits were taken.~~assessed for the taxable year.

(3) The total cost to the General Fund of the credits taken."

SECTION 27. G.S. 105-164.13(38) reads as rewritten:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

…

(38) Food and other items lawfully purchased under the Food Stamp Program, ~~7 U.S.C. § 51,~~ 7 U.S.C. § 2011, and supplemental foods lawfully purchased with a food instrument issued under the Special Supplemental Food Program, 42 U.S.C. § 1786, and supplemental foods purchased for direct distribution by the Special Supplemental Food Program."

SECTION 28. G.S. 105-164.44I is amended by adding a new subsection to read:

"(c1) Revised Certification. – If a county or city determines that the amount of cable franchise tax it imposed during the first six months of the 2006-2007 fiscal year differs from the amount certified to the Secretary under subsection (c) of this section, the county or city may submit a new certification to the Secretary revising the amount. For distributions for quarters beginning on or after October 1, 2007, the Secretary must determine the proportionate share of a county or city based upon certifications submitted on or before October 1, 2007. For distributions for quarters beginning on or after April 1, 2008, the Secretary must determine the proportionate share of a county or city based upon certifications submitted on or before April 1, 2008. Certifications submitted after April 1, 2008, may not be used to adjust a county's or city's base amount under subsection (c) of this section."

SECTION 30. G.S. 105-187.11 is repealed.

SECTION 31. G.S. 105-241(b)(2) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

…

(2) ~~Semimonthly~~ Prepayment taxes. – A taxpayer that is required to ~~pay tax on a semimonthly schedule~~ prepay tax under G.S. 105-116 or G.S. 105-164.16 must pay the tax by electronic funds transfer."

SECTION 32. G.S. 105-248.1 is repealed.

SECTION 33. G.S. 105-259(b)(3) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

…

(3) ~~Review by~~ To exchange the following types of information with a tax official of another jurisdiction if the laws of the other jurisdiction allow it to provide similar tax information to a representative of this State:

a. ~~to~~ Information to aid the jurisdiction in collecting a tax imposed by this State or the other ~~jurisdiction if the laws of the other jurisdiction allow it to provide similar tax information to a representative of this State.~~jurisdiction.

b. Information needed for statistical reports and revenue estimates."

SECTION 34. G.S. 105-259(b)(7) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

…

(7) To exchange information with the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, the Division of Motor Vehicles of the Department of Transportation, ~~or~~ the International Fuel Tax Association, Inc., or the Joint Operations Center for National Fuel Tax Compliance when the information is needed to fulfill a duty imposed on the Department of Revenue, the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, or the Division of Motor Vehicles of the Department of Transportation."

SECTION 35. G.S. 105-259(b)(13) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

…

(13) To furnish the following to the Fiscal Research Division of the General Assembly, upon ~~request, a~~ request:

a. A sample, suitable in character, composition, and size for statistical analyses, of tax returns or other tax information from which taxpayers' names and identification numbers have been removed.

b. An analysis of the fiscal impact of proposed legislation."

SECTION 36. G.S. 105-259 (b)(27) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

…

(27) To provide a report required under this Chapter. ~~105-129.85~~"

SECTION 37. G.S. 105-275(41) reads as rewritten:

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

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

…

(41) Objects of art held by the North Carolina State Art Society, Incorporated."

SECTION 38.(a) G.S. 105-449.81(3a) is repealed.

SECTION 38.(b) This section becomes effective January 1, 2008.

SECTION 39. G.S. 142-95 is repealed.

SECTION 40. Article 3 of Chapter 159D of the General Statutes is repealed.

SECTION 41. G.S. 20-51(16), as enacted by S.L. 2007-194, reads as rewritten:

"§ **20-51. Exempt from registration.**

The following shall be exempt from the requirement of registration and certificate of title:

…

(16) A vehicle that meets all of the ~~following:~~following conditions is exempt from the requirement of registration and certificate of title. The provisions of G.S. 105-449.117 continue to apply to the vehicle and to the person in whose name the vehicle would be registered.

a. Is an agricultural spreader vehicle. An 'agricultural spreader vehicle' is a vehicle that is designed for off-highway use on a farm to spread fertilizer, seed, lime, or other agricultural products on a field.

b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.

c. Does not exceed a speed of 35 miles per hour.

d. Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer and other products.

e. Is driven by a person who has a license appropriate for the class of the vehicle.

f. Is insured under a motor vehicle liability policy in the amount required under G.S. 20-309.

g. Displays a valid federal safety inspection decal if the vehicle has a gross vehicle weight rating of at least 10,001 pounds."

SECTION 42. The prefatory language to Section 6 in S.L. 2007-224 reads as rewritten:

"**SECTION 6.** ~~G.S. 160-215(g)~~ G.S. 160A-215(g) reads as rewritten:"

SECTION 43. G.S. 153A-155(g) reads as rewritten:

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

SECTION 44. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:40 a.m. on the 31st day of August, 2007.

Session Law 2007-528 **Senate Bill 692**

AN ACT TO ESTABLISH THE BOXING ADVISORY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 68 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-652.2. Boxing Advisory Commission.**

(a) Creation. – The Boxing Advisory Commission is created within the Department of Crime Control and Public Safety to advise the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety concerning matters regulated by this Article. The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina. The members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the President Pro Tempore of the Senate for an initial term of three years.

(3) One voting member shall be appointed by the Speaker of the House of Representatives for an initial term of three years.

(4) One voting member shall be appointed by the Secretary of Crime Control and Public Safety for an initial term of three years.

(5) One voting member shall be appointed by the Lieutenant Governor for an initial term of two years.

(6) One voting member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(7) One nonvoting advisory member shall be appointed by the Speaker of the House of Representatives for an initial term of one year, from

nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(8) One nonvoting advisory member shall be appointed by the President Pro Tempore of the Senate for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

Notwithstanding the schedule above in subdivisions (1), (5), (7), and (8) of this subsection, if any former member of the North Carolina Boxing Commission is appointed to the initial membership, that person shall serve an initial term of three years. The member appointed pursuant to subdivision (6) of this subsection may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (7) and (8) of this subsection shall advise the Commission and the Division on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and to the Division for its approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Crime Control and Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Crime Control and Public Safety for cause. Members of the Commission are subject to the conflicts of interest requirements of 15 U.S.C. § 6308 (contained in the Professional Boxing Safety Act of 1996, as amended). Each member, before entering upon the duties of a member, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of Crime Control and Public Safety.

(b) Vacancies. – Members shall serve until their successors are appointed and have been qualified. Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment. A vacancy in the membership of the Commission other than by expiration of term shall be filled for the unexpired term only.

(c) Meetings. – Meetings of the Commission shall be called by the chair or by any two members of the Commission, and meetings shall be held at least quarterly. Any three voting members of the Commission shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the Commission at any meeting by the affirmative vote of a majority of the members of the Commission present at a meeting at which a quorum exists.

(d) Review Authority of the Commission. – The Commission shall review existing rules adopted under this Article and shall from time to time make recommendations to the Division for changes or addition to such rules. Any proposals for change, amendment, addition, or deletion to those rules shall be submitted by the Division to the Commission for its comments prior to approval.

(e) Compensation. – None of the members of the Commission shall receive compensation for serving on the Commission. However, members of the Commission

may be reimbursed for their expenses in accordance with the provisions of Chapter 138 of the General Statutes.

(f) Staff Assistance. – The Secretary of Crime Control and Public Safety shall provide staff assistance to the Commission.

(g) Initial appointments to the Commission under this reenacted section shall be for terms commencing July 1, 2007."

SECTION 2. This act becomes effective August 1, 2007.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 11:43 a.m. on the 31st day of August, 2007.

Session Law 2007-529 **Senate Bill 490**

AN ACT TO CLARIFY THAT INDUSTRIAL MACHINERY IS NOT SUBJECT TO REGULATION UNDER THE BUILDING CODE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Health Services which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, 'industrial machinery' means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services

such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

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

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Became law upon approval of the Governor at 11:44 a.m. on the 31st day of August, 2007.

Session Law 2007-530 **Senate Bill 1362**

AN ACT TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT TO CLARIFY THE DEFINITION OF DRY-CLEANING SOLVENT, TO AUTHORIZE THE USE OF FUNDS FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR THE INVESTIGATION OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES REASONABLY BELIEVED TO BE CONTAMINATED BY DRY-CLEANING SOLVENT, TO PROVIDE THAT ALL SITE WORK WILL BE PERFORMED BY A PRIVATE CONTRACTOR RETAINED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION, TO MODIFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO POTENTIALLY RESPONSIBLE PARTIES, TO AUTHORIZE TEMPORARY RULE MAKING, AND TO INCREASE THE ANNUAL SPENDING CAP FOR THE CLEANUP OF SITES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.104B(b) reads as rewritten:

"(b) Unless a different meaning is required by the context, the following definitions apply in this Part. The definitions set out in this subsection apply only to the implementation of this Part and do not define or limit the scope of any other remedial program:

...

(9) "Dry-cleaning solvent" means ~~Perchloroethylene F-1,1,3 or 1,1,1 tricholorethane, a petroleum-based solvent, another comparable product used as a cleaning agent~~any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these ~~hazardous substances.~~solvents.

(10) "Dry-cleaning solvent assessment agreement" or "assessment agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to assess~~an assessment of

whether a release of dry-cleaning solvents at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility may be eligible for remediation under this Part and whether any other contaminants that are identified in the agreement may require remediation under other remedial programs operated or administered by the Department.

...

(12) "Dry-cleaning solvent remediation agreement" or "remediation agreement" means an agreement between the Commission and a potentially responsible party who desires ~~to clean up~~the cleanup of dry-cleaning solvent contamination resulting from a release at a dry-cleaning facility, an abandoned dry-cleaning facility site, or a wholesale distribution facility under this Part and any other contaminants that are identified in the agreement under other remedial programs operated or administered by the Department.

(13) "Facility" means a dry-cleaning facility or a wholesale distribution facility.

(14) "Fund" means the Dry-Cleaning Solvent Cleanup Fund.

(14a) "Halogenated hydrocarbon" means any hydrocarbon where at least one hydrogen atom is substituted by a halogen atom.

(15) "Hazardous waste" ~~shall have~~ has the same meaning ~~ascribed to it~~as in G.S. 130A-290.

(15a) "Hydrocarbon" means any linear, branched, saturated, or unsaturated compound whose molecules contain only carbon and hydrogen atoms.

…."

SECTION 2. G.S. 143-215.104C reads as rewritten:

"§ **143-215.104C. Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. – The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. – The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the Fund under G.S. 105-164.44E.

(5) Application fees pursuant to G.S. 143-215.104F(a1).

(c) Disbursements. – A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay ~~or reimburse~~ claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay ~~or reimburse~~ any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay ~~or reimburse~~ costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or

sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities.

(d) Up to one percent (1%) of the amount of the Fund balance may be used by the Department in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department reasonably believes to be contaminated by dry-cleaning solvent. If the contamination is determined to originate from a dry-cleaning facility, a potentially responsible party may petition for certification of the facility or abandoned facility site. Acceptance of a petition shall be conditioned upon the written acceptance by the petitioner of responsibility for the costs of investigation incurred by the Department pursuant to this subsection. Costs of investigation that are recovered pursuant to this subsection shall not exceed, and shall be credited toward, the financial responsibility of the petitioner pursuant to G.S. 143-215.104F(f). If a potentially responsible party does not petition for certification of the facility or abandoned facility site, the Commission may request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this subsection."

SECTION 3. G.S. 143-215.104D reads as rewritten:

"§ **143-215.104D. Powers of the Commission.**

(a) Administrative Functions. – The Commission may delegate any or all of the powers enumerated in this subsection to the Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation ~~activities that are reimbursable from the Fund.~~activities.

~~(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.~~

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, and certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund ~~to reimburse~~for the costs of assessment and remediation.

(b) Rule making. – The Commission shall adopt rules as are necessary to implement the provisions of this Part. Rules adopted by the Commission shall be consistent with and shall not duplicate, but may incorporate by reference, the rules

adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes. The Commission shall not delegate the rule-making powers provided in this subsection.

(1) The Commission may adopt rules governing:

~~a. Fees for response costs reimbursable under this Part.~~

b. The certification and decertification of facilities or abandoned sites.

c. The prioritization of facilities or abandoned sites and scheduling of funding for assessment and remediation activities. These rules shall provide for:

1. Consideration of the degree of harm or risk to public health and the environment.
2. Consideration of the order in which certification is issued for the facility or abandoned site.
3. Consideration of the relative cost of assessment and remediation activities.
4. Use of the Fund so as to maximize the reduction of harm or risk posed by certified facilities, certified abandoned sites, uncertified facilities and uncertified sites.

d. The disbursement of revenue from the Fund for payment ~~or reimbursement~~ of approved assessment or remediation costs.

e. The determination whether assessment or remediation is necessary at a contamination site.

f. The determination that all necessary assessment and remediation has been completed at a contamination site.

g. The terms and conditions of dry-cleaning solvent assessment agreements and remediation agreements.

h. The determination whether additional assessment or remediation is necessary at a contamination site previously closed under this Part.

(2) The Commission may adopt rules establishing minimum management practices for handling of dry-cleaning solvent at dry-cleaning facilities and wholesale distribution facilities. The rules may:

a. Require that all perchloroethylene dry-cleaning machines installed at a dry-cleaning facility after the effective date of the rule or temporary rule meet air emission standards that equal or exceed the standards that apply to comparable dry-to-dry perchloroethylene dry-cleaning machines with integral refrigerated condensation.

b. Prohibit the discharge of dry-cleaning solvents or water that contains dry-cleaning solvents into sanitary sewers, septic systems, storm sewers, or waters of the State.

c. Require spill containment structures around dry-cleaning machines, filters, stills, vapor adsorbers, solvent storage areas, and waste solvent storage areas.

d. Require floor sealants for cleaning room areas if the Commission finds the sealants to be effective.

e. Require, by 1 January 2002, the use of improved solvent transfer systems to prevent releases at the time of delivery of solvents to a dry-cleaning facility.

f. Require any other solvent-handling practices the Commission may find necessary and appropriate to minimize the risk of releases at dry-cleaning facilities or wholesale distribution facilities.

(3) The Commission shall adopt rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination resulting from releases at facilities or abandoned sites certified pursuant to G.S. 143-215.104G. The rules shall address, at a minimum:

a. Criteria and methods for determining remediation requirements, including the level of remediation necessary to assure adequate protection of public health and the environment.

b. The circumstances under which information specific to the dry-cleaning solvent contamination site should be considered and required.

c. The circumstances under which restrictions on the future use of any remediated dry-cleaning solvent contamination site should be considered and required as a means of achieving and maintaining an adequate level of protection for public health and the environment.

d. Strategies for the assessment and remediation of dry-cleaning solvent contamination, including presumptive remedial responses sufficient to provide an adequate level of protection as described under sub-subdivision a. of this subdivision.

(c) All rules adopted by the Commission shall be applicable to all dry-cleaning facilities, wholesale distribution facilities, and abandoned dry-cleaning facilities in the State and shall, to the maximum extent practicable, be cost-effective and technically feasible while protecting public health and the environment from the release of dry-cleaning solvents.

(d) Unless otherwise provided in this Part, the Commission may delegate any of its rights, duties, and responsibilities under this Part to the Department."

SECTION 4. G.S. 143-215.104F reads as rewritten:

"§ **143-215.104F. Requirements for certification, assessment agreements, and remediation agreements.**

(a) General Requirements. – Any person petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(a1) Application Fees. – Each person petitioning or co-petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G shall pay an application fee of one thousand dollars ($1,000) to the Commission.

(b) Requirements for Potentially Responsible Persons Generally. – Every petitioner shall provide the Commission with:

(1) Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner, has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. – In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the ~~Commission~~ Commission, ~~or~~ its ~~agent~~ agent, and its private contractor to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement.

(c1) Costs incurred by the petitioner for activities to obtain certification of a facility or abandoned site shall not be reimbursable from the Fund.

(d) The Commission ~~shall~~ may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(3) Repealed by Session Laws 2000, c. 19, s. 3.

~~(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:~~

~~(1)~~(4) The petitioner fails to provide the information required by subsection (b) of this section.

~~(2)~~(5) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and

extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. The financial responsibility required shall be as follows:

(1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first five thousand dollars ($5,000) of the costs of assessment or remediation and~~ one percent (1%) of the costs of assessment or remediation ~~in excess of two hundred thousand dollars ($200,000) but~~ not exceeding one million dollars ($1,000,000).

(2) For abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first ten thousand dollars ($10,000) of the costs of assessment or remediation, two percent (2%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and~~ one and one-half percent ~~(1%)~~ (1.5%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

(3) For wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, ~~the first fifteen thousand dollars ($15,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%)~~ two percent (2%) of the costs of assessment or remediation ~~in excess of five hundred thousand dollars ($500,000) but~~ not exceeding one million dollars ($1,000,000).

~~(4) For wholesale distribution facilities and abandoned dry-cleaning facility sites, the first twenty-five thousands dollars ($25,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).~~

(g) Repealed by Session Laws 2000, c. 19, s. 3."

SECTION 5. G.S. 143-215.104H reads as rewritten:

"§ **143-215.104H. Dry-Cleaning Solvent Assessment Agreements.**

(a) Assessment Agreements. – One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. The Commission may require the petitioners to provide the Commission with any information necessary to demonstrate:

(1) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission.

~~(2) The projected schedule for funding of assessment activities is adequate.~~

~~(3) The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.~~

~~(4) The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.~~

~~(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or abandoned site.~~

(5) The petitioner has and will continue to have available the financial resources necessary to pay ~~the costs of assessment activities and~~ the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

~~(8) The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.~~

(9) The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

(1) Repealed by Session Laws 2000, c. 19, s. 9.

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount for which the petitioner is responsible under G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and that are otherwise consistent with the requirements of this Part.

~~(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.~~

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the petitioner's share of the response costs required by G.S. 143-215.104F.

~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.~~

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay ~~or reimburse~~ any ~~response~~ costs otherwise payable ~~or reimbursable~~ under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

SECTION 6. G.S. 143-215.104I reads as rewritten:

"§ **143-215.104I. Dry-Cleaning solvent remediation agreements.**

(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into

a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate:

(1) Repealed by Session Laws 2000, c. 19, s. 10.

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

~~(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.~~

(5) The petitioner has complied with or will comply with all applicable procedural requirements.

(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.

(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.

~~(8) The projected schedule for funding of remediation activities.~~

(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.

~~(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.~~

(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement.

(b) In negotiating a remediation agreement, parties may rely on land-use restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M. A remediation agreement may provide for remediation in accordance with standards that are based on those land-use restrictions.

(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

(1) Any remediation, including remediation of contaminants other than dry-cleaning solvents, to be conducted on the property, including:

a. A description of specific areas where remediation is to be conducted.
b. The remediation method or methods to be employed.
~~c. The resources that the petitioner will make available and the degree to which the petitioner intends to rely on the Fund for resources.~~
d. A schedule of remediation activities.
e. Applicable remediation standards. Applicable remediation standards for dry-cleaning solvent contamination shall not exceed the requirements adopted by the Commission pursuant to G.S. 143-104D(b)(3).
f. A schedule and the method or methods for evaluating the remediation.

(2) Any land-use restrictions that will apply to the contamination site or other property.
(3) The desired results of any remediation or land-use restrictions with respect to the contamination site.
(4) The guidelines, including parameters, principles, and policies within which the desired results are to be accomplished.
(5) The consequences of achieving or not achieving the desired results.
(6) The priority ranking of the facility or abandoned site.
~~(7) The person who will conduct the remediation if that person is not the potentially responsible party entering the remediation agreement.~~

(d) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with any petitioner ~~if:~~if

~~(1) The petitioner will not accept financial responsibility for the share of the response costs established in G.S. 143-215.104F. This requirement shall not apply to a petitioner who (i) is the owner of property upon which the dry-cleaning solvent contamination is located, and (ii) is not a current or former owner or operator of a facility believed to be responsible for the contamination.~~
~~(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking remediation activities required by the Commission.~~
~~(3) The~~ the petitioner fails to provide any information that is necessary to demonstrate the facts required to be shown by subsection (a) of this section.

(e) In addition to the ~~bases~~ basis set forth in subsection (d) of this section, the Commission may refuse to enter into a dry-cleaning solvent remediation agreement with ~~the~~ an owner of the property on which a contamination site is located if the owner refuses to accept limitations on the future use of the property and to give notice of these limitations pursuant to G.S. 143-215.104M.

(f) The refusal of the Commission to enter into a dry-cleaning remediation agreement with any petitioner shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The refusal of the Commission to enter into a remediation agreement may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site.

(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement authorities and limitations set out in this Part. ~~A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part.~~ A remediation agreement ~~may~~ shall provide that the ~~Commission~~ Commission's private contractor conduct assessment and remediation activities at the facility or abandoned site.

(h) Any failure of a petitioner or the petitioner's agents or employees to comply with the dry-cleaning solvent remediation agreement constitutes a violation of this Part by the petitioner."

SECTION 7. G.S. 143-215.104J(a) reads as rewritten:

"(a) The Commission may decertify a facility or abandoned site or renegotiate or terminate an assessment agreement or remediation agreement with respect to any party thereto in the following circumstances:

(1) The owner or operator of the facility, at any time subsequent to the certification of the facility, violates any of the minimum management requirements adopted by the Commission pursuant to G.S. 143-215.104D(b)(2).

(2) In the case of dry-cleaning contamination on property that is owned by a petitioner, the petitioner fails to file a Notice of Dry-Cleaning Solvent Remediation, if required, as provided in G.S. 143-215.104M.

(3) The potentially responsible persons who are parties to a dry-cleaning solvent assessment agreement are unable to reach an agreement with the Commission to enter into a dry-cleaning solvent remediation agreement within the time specified in the assessment agreement.

(4) The payment of taxes assessed to the facility under Article 5D of Chapter 105 of the General Statutes is delinquent.

(5) Repealed by Session Laws 2000, c. 19, s. 3.

(6) The owner or operator fails to comply with all applicable requirements of this Part ~~to complete any assessment or remediation activities required by~~or fails to comply with all applicable requirements of an assessment agreement or remediation agreement.

(7) The owner or operator of a facility for which an assessment or remediation activity is scheduled or in progress transfers the ownership or operation of the facility or abandoned site to another person without the prior consent of the Commission and the execution of a substitute assessment agreement or remediation agreement.

(8) The standards applied to the dry-cleaning solvent contamination remediation or containment under the provisions of this Part and the dry-cleaning solvent remediation agreement will, or are likely to, cause the Department to fail to comply with the terms and conditions under which it operates and administers a remediation program by delegation or similar authorization from the United States or one of its departments or agencies, including the Environmental Protection Agency.

(9) A petitioner fails to pay the Commission any amounts for which a petitioner is responsible pursuant to G.S. 143-215.104F."

SECTION 8. G.S. 143-215.104K(a) reads as rewritten:

"(a) A potentially responsible party who enters into an assessment agreement or remediation agreement with the Commission and who is complying with the agreement shall not be held liable for assessment or remediation of areas of contamination identified in the agreement except as specified in the assessment agreement or remediation agreement, so long as ~~the~~ any activities conducted at the contamination site by or under the control or direction of the petitioner do not increase the risk of harm to public health or the environment and the petitioner is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section. The liability protection provided under this Part applies to all of the following persons to the same extent as the petitioner, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties and the person is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section:

~~(1) Any person under the direction or control of the petitioner who directs or contracts for assessment, remediation, or redevelopment of the contamination site.~~

(2) Any future owner of the contamination site.

(3) A person who ~~develops or~~ occupies the contamination site.

(4) A successor or assign of any person to whom the liability protection provided under this Part applies.

(5) Any lender or fiduciary that provides financing ~~for assessment, remediation, or redevelopment of the contamination site.~~to the petitioner to pay the petitioner's financial obligations under G.S. 143-215.104F."

SECTION 9. G.S. 143-215.104L reads as rewritten:

"§ **143-215.104L. Public notice and community involvement.**

(a) If a petitioner desires to enter into a dry-cleaning solvent remediation agreement based on remediation standards that rely on the creation of land-use restrictions, the Commission or the Commission's private contractor on behalf of the petitioner shall notify the public and the community in which the facility or abandoned site is located of the planned remediation and redevelopment activities. ~~The petitioner~~On behalf of the petitioner, the Commission or the Commission's private contractor shall ~~submit~~ prepare a Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site and a summary of the Notice of ~~Intent to the Commission.~~Intent. The Notice of Intent shall provide, to the extent known, a legal description of the location of the contamination site, a map showing the location of the contamination site, a description of the contaminants involved and their concentrations in the media of the contamination site, a description of the future use of the contamination site, any proposed investigation and remediation, and a proposed Notice of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed dry-cleaning solvent remediation agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Commission, ~~the petitioner~~the Commission or the Commission's private contractor

shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the contamination site. The ~~petitioner~~ Commission or Commission's private contractor shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the contamination is located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register. The ~~petitioner~~ Commission or the Commission's private contractor shall also conspicuously post a copy of the summary of the Notice of Intent at the contamination site.

(b) Publication of the approved summary of the Notice of Intent in the North Carolina Register and publication in a newspaper of general circulation shall begin a public comment period of at least 60 days from the later date of publication. During the public comment period, members of the public, residents of the community in which the contamination site is located, and local governments having jurisdiction over the contamination site may submit comment on the proposed dry- cleaning solvent remediation agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed dry- cleaning solvent remediation agreement shall submit a written request for a public meeting to the Commission within 30 days after the public comment period begins. The Commission shall consider all requests for a public meeting and shall hold a public meeting if the Commission determines that there is significant public interest in the proposed remediation agreement. If the Commission decides to hold a public meeting, the Commission shall, at least 30 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to any other person who had previously requested notice. The Commission shall also ~~direct the petitioner to~~ publish, at least 30 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in the county where the contamination site is located. In any county in which there is more than one newspaper having general circulation, the Commission shall ~~direct the petitioner to~~ publish a copy of the notice in as many newspapers having general circulation in the county as the Commission in its discretion determines to be necessary to assure that the notice is generally available throughout the county. The Commission shall prescribe the form and content of the notice to be published. The Commission shall prescribe the procedures to be followed in the public meeting. The Commission shall take detailed minutes of the meeting. The minutes shall include any written dry-cleaning solvent remediation agreement. The Commission shall take into account the comment received during the comment period and at the public meeting if the Commission holds a public meeting. The Commission shall incorporate into the remediation agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Commission shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis."

SECTION 10. G.S. 143-215.104M(a) reads as rewritten:

"(a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health or the environment posed by a dry-cleaning solvent contamination site, the owner of property upon which dry-cleaning solvent contamination has been discovered may ~~prepare and submit to the Commission for approval~~file a Notice of Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which the contamination has been discovered and providing for current or future restrictions on the use of the property. If a petitioner requests that a contamination site be remediated to

standards that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning Solvent Remediation for the remediation agreement to become effective."

SECTION 11. G.S. 143-215.104N reads as rewritten:

"§ **143-215.104N. ~~Reimbursement~~ Disbursement of dry-cleaning solvent assessment and remediation costs; limitations; ~~collection of reimbursement.~~cost recovery.**

(a) ~~Reimbursement.~~Allowable Costs. – To the extent monies are available in the ~~Fund for reimbursement of response costs,~~Fund, the Commission shall ~~reimburse any person, including a private contractor, responsible for implementing~~ pay for reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.

(2) Costs of treatment or replacement of potable water supplies affected by the contamination.

(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.

(4) Monitoring of the contamination.

(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment.

(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

(1) For costs incurred in connection with facilities or abandoned sites not certified pursuant to G.S. 143-215.104G.

(2) For costs not incurred pursuant to a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement.

~~(3) For costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site for which funds obligated by petitioners pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in accordance with G.S. 143-214.104F(f) are overdue.~~

(4) For costs at a contamination site that has been identified by the United States Environmental Protection Agency as a federal Superfund site pursuant to 40 Code of Federal Regulations, Part 300 (1 July 1996 Edition), except that the Commission may authorize distribution of the required State match in an amount not to exceed two hundred thousand dollars ($200,000) per year per site. The Commission shall not delegate its authority to disburse funds pursuant to this subdivision.

(5) For remediation beyond the level required under the Commission's risk-based criteria for determining the appropriate level of remediation.

(6) For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in excess of ~~two~~ five hundred thousand dollars ~~($200,000)~~ ($500,000) per year. However, that the Commission may disburse up to ~~four hundred thousand~~ one million dollars ~~($400,000)~~($1,000,000) per year for assessment and remediation costs incurred in connection with a ~~certified~~ facility or ~~a certified~~ an abandoned site ~~that~~ if the facility or abandoned site has been certified and poses an imminent hazard.

(7) That would result in a diminution of the Fund balance below one hundred thousand dollars ($100,000), unless an emergency exists in connection with a dry-cleaning solvent contamination abandoned site that constitutes an imminent hazard.

(8) For any costs incurred in connection with dry-cleaning solvent contamination from a facility located on a United States military base or owned by the United States or a department or agency of the United States.

(9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State.

~~(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement until the petitioners who are party to the agreement have paid all sums due under the agreement.~~

(d) ~~Each dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreements made by the Commission pursuant to this Part shall expressly state that the Commission's obligation to reimburse response costs incurred pursuant to these agreements shall be contingent upon the availability of monies from the Fund and that the State and its departments and agencies have no obligation to reimburse otherwise eligible expenses if monies are not available in the Fund to pay the reimbursements.~~ If, at any time, the Commission determines that the cost of assessment and remediation activities ~~reimbursable~~ incurred pursuant to existing dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements equals or exceeds the total revenues expected to be credited to the Fund over the life of the Fund, the Commission shall publish notice of the determination in the North Carolina Register. Following the publication of a notice pursuant to this section, the Commission may continue to enter into dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements until the day of adjournment of the first regular session of the General Assembly that begins after the date the notice is published, but shall have no authority to enter into additional dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements after that date unless the Commission first determines either (i) that revenues will be available from the Fund to ~~reimburse~~ pay the costs of assessment and remediation activities expected to be ~~reimbursable~~ incurred pursuant to the agreements, or (ii) that assessment and remediation activities undertaken pursuant to the agreements will be paid entirely from sources other than the Fund. For the purposes of this subsection, the term "day of adjournment" shall mean: (i) in the case of a regular session held in an odd-numbered year, the day the General Assembly adjourns by joint resolution for more than 10 days, and (ii) in the case of a regular session held in an even-numbered year, the day the General Assembly adjourns sine die.

(e) ~~The Commission shall pay the reimbursable response costs of eligible parties as they are incurred.~~ If the cleanup of the contamination site is not completed through fault of the petitioner as required by the remediation agreement, the petitioner shall reimburse the Fund for any response costs previously ~~reimbursed~~ disbursed from the fund for the ~~cleanup shall be repaid to the Fund,~~cleanup, with interest. The Commission shall request the Attorney General to commence a civil action to secure repayment of response costs and interest of the costs."

SECTION 12. G.S. 143-215.104T(b) reads as rewritten:

"(b) Notwithstanding the provision of the Tort Claims Act, G.S. 143-291 through G.S. 143-300.1 or any other provision of law waiving the sovereign immunity of the State of North Carolina, the State, its agencies, officers, employees, and agents shall be absolutely immune from any liability in any proceeding for any injury or claim arising from negotiating, entering into, implementing, monitoring, or enforcing a dry-cleaning solvent assessment agreement, a dry-cleaning solvent remediation agreement, or a Notice of Dry-Cleaning Solvent Remediation under this Part or any other action implementing this Part."

SECTION 13. G.S. 105-187.31 reads as rewritten:

"§ **105-187.31. Tax imposed.**

A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise tax is imposed on dry-cleaning solvent purchased outside the State for storage, use, or consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the excise tax is ten dollars ($10.00) for each gallon of halogenated hydrocarbon-based dry-cleaning solvent ~~that is chlorine-based~~ and one dollar and thirty-five cents ($1.35) for each gallon of hydrocarbon-based dry-cleaning ~~solvent that is hydrocarbon-based.~~ solvent. These taxes are in addition to all other taxes."

SECTION 14. If the Environmental Management Commission adopts rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination, the original notice of text for which was published at 21 N.C. Reg. 1818 (April 16, 2007); the Rules Review Commission approves these rules, including any changes incorporated as a result of public comments or Rules Review Commission requirements; and the Rules Review Commission receives 10 or more letters of objection to these rules in accordance with G.S. 150B-21.3(b2), the Environmental Management Commission, notwithstanding the requirements of G.S. 150B-21.1 and G.S. 150B-21.3, may adopt these rules as temporary rules in accordance with the temporary rule-making procedures set out in Chapter 150B of the General Statutes.

SECTION 15.(a) G.S. 143-215.104F(a1), as enacted by Section 4 of this act, becomes effective on 1 September 2007 and applies to applications for certifications made and assessment agreements and remediation agreements entered into on or after that date. G.S. 143-215.104F(f), as amended by Section 4 of this act, is effective retroactively to 1 August 2001 and applies to assessment agreements and remediation agreements entered into on or after that date. The Environmental Management Commission shall credit any payment received from a petitioner prior to 1 September 2007 against the petitioner's co-payment obligations under G.S. 143-215.104F, but the Environmental Management Commission shall not repay, and this section shall not operate to create any right for a petitioner to demand, any refund of funds received prior to 1 September 2007. All other amendments to G.S. 143-215.104F, as enacted by Section 4 of this act, are effective when this act becomes law.

SECTION 15.(b) G.S. 143-215.104N(b)(6), as enacted by Section 11 of this act, is effective retroactively to 1 January 2007. All other amendments to G.S. 143-215.104N, as enacted by Section 11 of this act, are effective when this act becomes law.

SECTION 15.(c) Section 12 of this act becomes effective retroactively to 1 January 1998.

SECTION 15.(d) Except as provided in subsections (a) through (c) of this section, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:48 a.m. on the 31st day of August, 2007.

Session Law 2007-531 **Senate Bill 1435**

AN ACT AMENDING THE LAWS PERTAINING TO THE PRACTICE OF FUNERAL SERVICE, MUTUAL BURIAL ASSOCIATIONS, PRENEED FUNERAL FUNDS, AND CREMATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.18A reads as rewritten:

"§ **90-210.18A. Board of Funeral Service created; qualifications; vacancies; removal.**

(a) The General Assembly declares that the practice of funeral service affects the public health, safety, and welfare and is subject to regulation and control in the public interest. The public interest requires that only qualified persons be permitted to practice funeral service in North Carolina and that the profession merit the confidence of the public. This Article shall be liberally construed to accomplish these ends.

(b) The North Carolina Board of Funeral Service is created and shall regulate the practice of funeral service in this State. The Board shall have nine members as follows:

(1) Four members appointed by the Governor from nominees recommended by the North Carolina Funeral Directors Association, Inc. These members shall be persons licensed under this Article.

(2) Two members appointed by the Governor from nominees recommended by the Funeral Directors & Morticians Association of North Carolina, Inc. These members shall be persons licensed under this Article.

(3) One member appointed by the Governor who is licensed under this Article and who is not affiliated with any funeral service trade association.

(4) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.

(5) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.

Members of the Board shall serve staggered three-year terms, ending on ~~June 30~~December 31 of the last year of the term or when a successor has been duly appointed, whichever is later. No member may serve more than two complete consecutive terms.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms of Board members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved."

SECTION 2. G.S. 90-210.20 reads as rewritten:

"§ **90-210.20. Definitions.**

(a) "Advertisement" means the publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public, any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any radio, television station, or electronic medium.

(b) "Board" means the North Carolina Board of Funeral Service.

(c) "Burial" includes interment in any form, cremation and the transportation of the dead human body as necessary therefor.

(c1) "Dead human bodies", as used in this Article includes fetuses beyond the second trimester and the ashes from cremated bodies.

(d) "Embalmer" means any person engaged in the practice of embalming.

(e) "Embalming" means the preservation and disinfection or attempted preservation and disinfection of dead human bodies by application of chemicals externally or internally or both and the practice of restorative art including the restoration or attempted restoration of the appearance of a dead human body. Embalming shall not include the washing or use of soap and water to cleanse or prepare a dead human body for disposition by the authorized agents, family, or friends of the deceased who do so privately without pay or as part of the ritual washing and preparation of dead human bodies prescribed by religious practices; provided, that no dead human body shall be handled in a manner inconsistent with G.S. 130A-395.

(e1) ~~"Funeral chapel"~~ "Chapel" means a chapel or other facility separate from the funeral establishment premises for the primary purpose of reposing of dead human bodies, visitation or funeral ceremony that is owned, operated, or maintained by a funeral establishment ~~or other licensee~~ under this Article, and that does not use the word "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in which or on the premises of which there is not displayed any caskets or other funeral merchandise; in which or on the premises of which there is not located any preparation room; and which no owner, operator, employee, or agent thereof represents the chapel to be a funeral establishment.

(f) "Funeral directing" means engaging in the practice of funeral service except embalming.

(g) "Funeral director" means any person engaged in the practice of funeral directing.

(h) "Funeral establishment" means every place or premises devoted to or used in the care, arrangement and preparation for the funeral and final disposition of dead human bodies and maintained for the convenience of the public in connection with dead human bodies or as the place for carrying on the ~~profession~~ practice of funeral service.

(i) "Funeral service licensee" means a person who is duly licensed and engaged in the practice of funeral service.

(j) "Funeral service" means the aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as an organized, purposeful, time-limited, flexible, group-centered response to death.

(k) "Practice of funeral service" means engaging in the care or disposition of dead human bodies or in the practice of disinfecting and preparing by embalming or otherwise dead human bodies for the funeral service, transportation, burial or cremation, or in the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. "Practice of funeral service" also means engaging in making arrangements for funeral service, selling funeral supplies to the public or making financial arrangements for the rendering of such services or the sale of such supplies.

(l) "Resident trainee" means a person who is engaged in preparing to become licensed for the practice of funeral directing, embalming or funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral directing, embalming or funeral service in the State of North Carolina under the provisions of this Chapter, and who is duly registered as a resident trainee with the Board."

SECTION 3. G.S. 90-210.23 reads as rewritten:

"§ **90-210.23. Powers and duties of the Board.**

(a) The Board is authorized to adopt and promulgate such rules and regulations for transaction of its business and for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States.

(b) The Board shall elect from its members a president, a vice-president and a secretary, no two offices to be held by the same person. The president and vice-president and secretary shall serve for one year and until their successors shall be elected and qualified. The Board shall have authority to engage adequate staff as deemed necessary to perform its duties.

(c) The members of the Board shall serve without compensation provided that such members shall be reimbursed for their necessary traveling expenses and the necessary expenses incident to their attendance upon the business of the Board, and in addition thereto they shall receive per diem and expense reimbursement as provided in G.S. 93B-5 for every day actually spent by such member upon the business of the Board. All expenses, salaries and per diem provided for in this Article shall be paid from funds received under the provisions of this Article and shall in no manner be an expense to the State.

(d) Every person licensed by the Board and every resident trainee shall furnish all information required by the Board reasonably relevant to the practice of the profession or business for which the person is a licensee or resident trainee. Every funeral service establishment and its records and every place of business where the practice of funeral service or embalming is carried on and its records shall be subject to inspection by the Board during normal hours of operation and periods shortly before or after normal hours of operation and shall furnish all information required by the Board reasonably relevant

to the business therein conducted. Every licensee, resident trainee, embalming facility, and funeral service establishment shall provide the Board with a current post-office address which shall be placed on the appropriate register and all notices required by law or by any rule or regulation of the Board to be mailed to any licensee, resident trainee, embalming facility, or funeral service establishment shall be validly given when mailed to the address so provided.

(d1) The Board is empowered to hold hearings in accordance with the provisions of this Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive the affirmation of witnesses before the Board.

In any show cause hearing before the Board held under the authority of Chapter 150B of the General Statutes where the Board imposes discipline against a licensee, the Board may recover the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to exceed two thousand five hundred dollars ($2,500).

(e) The Board is empowered to regulate and inspect, according to law, funeral service establishments and embalming facilities, their operation, and the licenses under which they are operated, and to enforce as provided by law the rules, regulations, and requirements of the Division of Health Services and of the city, town, or county in which the funeral service establishment or embalming facility is maintained and operated. Any funeral establishment or embalming facility that, upon inspection, is found not to meet all of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain that the deficiency or other violation has been corrected. The Board is also empowered to enforce compliance with the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

(f) The Board may establish, supervise, regulate and control programs for the resident trainee. It may approve schools of mortuary science or funeral service, graduation from which is required by this Article as a qualification for the granting of any license, and may establish essential requirements and standards for such approval of mortuary science or funeral service schools.

(g) Schools for teaching mortuary science which are approved by the Board shall have extended to them the same privileges as to the use of bodies for dissecting while teaching as those granted in this State to medical colleges, but such bodies shall be obtained through the same agencies which provide bodies for medical colleges.

(h) The Board shall adopt a common seal.

(h1) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(h2) The Board may employ legal counsel and clerical and technical assistance, and fix the compensation therefor, and incur such other expenses as may be deemed necessary in the performance of its duties and the enforcement of the provisions of this Article or as otherwise required by law and as may be necessary to carry out the powers herein conferred.

(i) The Board may perform such other acts and exercise such other powers and duties as may be provided elsewhere in this Article or otherwise by law and as may be necessary to carry out the powers herein conferred."

SECTION 4. G.S. 90-210.25 reads as rewritten:

"§ **90-210.25. Licensing.**

(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

(1) To be licensed for the practice of funeral directing under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of a Funeral Director Program at a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.

d. Have completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.

e. Have passed an oral or written funeral director examination on the following subjects:

1. Psychology, sociology, pathology, funeral directing, business law, funeral law, funeral management, and accounting.

2. Repealed by Session Laws 1997-399, s. 5.

3. Laws of North Carolina and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

(2) To be licensed for the practice of embalming under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of a mortuary science college approved by the Board.

d. Have completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.

e. Have passed an oral or written embalmer examination on the following subjects:

1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.

2. Repealed by Session Laws 1997-399, s. 6.

3. Laws of North Carolina and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

(3) To be licensed for the practice of funeral service under this Article, a person must:

a. Be at least 18 years of age.
b. Be of good moral character.
c. Be a graduate of and receive an associate degree from a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 60 semester hours or 90 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.
d. Have completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivison c. of this subdivision.
e. Have passed an oral or written funeral service examination on the following subjects:
    1. Psychology, sociology, funeral directing, business law, funeral law, funeral management, and accounting.
    2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
    3. Repealed by Session Laws 1997-399, s. 7.
    4. Laws of North Carolina and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

(4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.
b. ~~When~~ Within 30 days of a resident trainee ~~leaves~~ leaving the proctorship of the licensee under whom the trainee has worked, the licensee shall file with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.
c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears

on the original certificate may reapply to the Board for approval.

d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than two times. The Board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the certificate will be canceled. A late fee, in addition to the renewal fee, shall be charged for a late renewal, but the renewal of the registration of any resident trainee who is engaged in the active military service of the United States at the time renewal is due may, at the discretion of the Board, be held in abeyance for the duration of that service without penalties. No credit shall be allowed for the 12-month period of resident traineeship that shall have been completed more than five years preceding the examination for a license.

e. All registered resident trainees shall report to the Board at least once every month during traineeship upon forms provided by the Board listing the work which has been completed during the preceding month of resident traineeship. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:
   1. For funeral director trainees, the conduct of any funerals during the relevant time period,
   2. For embalming trainees, the embalming of any bodies during the relevant time period,
   3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.

f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:
   1. That the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
   2. That the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
   3. That the funeral service trainee has, under supervision, assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.

g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.

h. Each sponsor for a registered resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.

i. Only one resident trainee may register and serve at any one time under any one person licensed under this Article.

j., k. Repealed by Session Laws 1991, c. 528, s. 4.

l. The Board shall register no more than one resident trainee at a funeral establishment that served 100 or fewer families during the 12 months immediately preceding the date of the application, and shall register no more than one resident trainee for each additional 100 families served at the funeral establishment during the 12 months immediately preceding the date of the application.

(5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own.

a. All licenses shall be signed by the president and secretary of the Board and the seal of the Board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year upon payment of the renewal fee, and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the date of their issue unless sooner revoked and canceled; provided, that the date of expiration may be changed by unanimous consent of the Board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.

b. The holder of any license issued by the Board who shall fail to renew the same on or before February 1 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which his North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during his service in the armed forces of the United States provided he applies within six months following severance therefrom.

c. All licensees now or hereafter licensed in North Carolina shall take continuing education courses in subjects relating to the practice of the profession for which they are licensed, to the end that the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.

d. As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, of which the Board may require licensees to take up to two hours specified by the Board. All continuing education courses must be approved by the Board prior to enrollment. A licensee who completes more than five hours in a year may carry over a maximum of five hours as a credit to the following year's requirement. A licensee who is issued an initial license on or after July 1 does not have to satisfy the continuing education requirement for that year.

e. The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who were licensed on or before December 31, 2003, and have been licensed in North Carolina for a continuous period of 25 years or more, for all licensees who are licensed on or after January 1, 2004, who have been licensed for a continuous period of 25 years or more and have attained the age of 60 years, and for all licensees who are, at the time of renewal, members of the General Assembly.

f. The Board shall cause to be established and offered to the licensees, each calendar year, at least eight hours of continuing education courses. The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article.

g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.

h. The Department of Justice may provide a criminal record check to the Board for a person who has applied for a new or renewal license, or certification through the Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subdivision.

(a1) Inactive Licenses. – Any person holding a license issued by the Board for funeral directing, for embalming, or for the practice of funeral service may apply for an inactive license in the same category as the active license held. The inactive license is renewable annually. Continuing education is not required for the renewal of an inactive license. The ~~only activity that a~~ holder of an inactive license may not engage in ~~is to vote pursuant to G.S. 90-210.18(c)(2).~~any activity requiring an active license. The holder of an inactive license may apply for an active license in the same category, and the Board shall issue an active license if the applicant has completed ~~in North Carolina~~ a total number of hours of accredited continuing education equal to five times the number of years the applicant held the inactive license. No application fee is required for the reinstatement of an active license pursuant to this subsection. The holder of an inactive license who returns to active status shall surrender the inactive license to the Board.

(a2) In order to engage in the practice of funeral directing or funeral service, such a licensee must own, be employed by, or otherwise be an agent of a licensed funeral establishment; except that such a licensee may practice funeral directing or funeral service if:

(1) Employed by a college of mortuary science; or

(2) The licensee:

a. Maintains all of his or her business records at a location made known to the Board and available for inspection by the Board under the same terms and conditions as the business records of a licensed funeral establishment;

b. Complies with rules and regulations imposed on funeral establishments and the funeral profession that are designed to protect consumers, to include, but not be limited to, the Federal Trade Commission's laws and rules requiring General Price Lists and Statements of Goods and Services; and

c. Pays to the Board the funeral establishment license fee required by law and set by the Board.

Nothing in this subdivision shall preclude a licensee from arranging cremations and cremating human remains while employed by a crematory.

(b) Persons Licensed under the Laws of Other Jurisdictions. –

(1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other states, territories, the District of Columbia, and foreign countries, when it is shown that the applicant holds a valid license as a funeral director, embalmer or funeral service licensee issued by the other jurisdiction, has demonstrated knowledge of the laws and rules governing the profession in North Carolina and has submitted proof of his good moral character; and either that the applicant has continuously practiced the profession in the other jurisdiction for at least three years immediately preceding his application, or the Board has determined that the licensing requirements for the other jurisdiction are substantially similar to those of North Carolina.

(2) The Board shall periodically review the mortuary science licensing requirements of other jurisdictions and shall determine which licensing requirements are substantially similar to the requirements of North Carolina.

(3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State. Except for special permits issued by the Board for teaching continuing education programs and for work in connection with disasters, no special permits may be issued to nonresident funeral directors, embalmers, and funeral service licensees from states that do not issue similar courtesy cards to persons licensed in North Carolina pursuant to this Article.

(c) Registration, Filing and Transportation. –

(1) The holder of any license granted by this State for those within the funeral service profession or renewal thereof provided for in this Article shall cause registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a conspicuous place in the funeral establishment where the holder renders service.

(2) It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless the body is accompanied by a burial-transit permit.

(3) The "transportation or removal of a dead human body" shall mean the removal of a dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, funeral establishment or facility, crematory or related holding facility, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.

(4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a permit from the Board before engaging in the transportation or removal of a dead human body in this State. Unless otherwise exempt from this subsection, no corporation or other business entity shall engage in the transportation or removal of a dead human body unless it has in its employ at least one individual who holds a permit issued under this section. No individual permit holder shall engage in the transportation or removal of a dead human body for more than one person, firm, or corporation without first providing the Board with written notification of the name and physical address of each such employer.

(5) The following persons shall be exempt from the permit requirements of this section but shall otherwise be subject to subdivision (9) of this subsection and any rules relating to the proper handling, care, removal, or transportation of a dead human body:
   a. Licensees under this Article and their employees.
   b. Employees of common carriers.
   c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.
   d. Funeral directors licensed in another state and their employees.

(6) The following persons shall be exempt from this section:
   a. Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement ~~officers.~~officers while acting within the scope of their employment.
   b. Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.
   c. State and county medical examiners and their investigators.
   d. Any individual transporting cremated remains.
   e. Any individual transporting or removing a dead human body of their immediate family or next of kin.
   f. Any individual who has exhibited special care and concern for the decedent.

(7) Individuals eligible to receive a permit under this section for the transportation or removal of a dead human body for a fee, shall:
   a. Be at least 18 years of age.
   b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to

engage in the business of the removal or transportation of a dead human body.

c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.

d. Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.

e. Be of good moral character.

(8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed one hundred twenty-five dollars ($125.00). A fee, not to exceed one hundred dollars ($100.00), in addition to the renewal fee not to exceed seventy-five dollars ($75.00), shall be charged for any application for renewal received by the Board after February 1 of each year.

(9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall fail to treat a dead human body with respect at all times. No person shall take a photograph or video recording of a dead human body without the consent of a member of the deceased's immediate family or next of kin or other authorizing agent.

(10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section. Any violation of this section or rules adopted under this section may be punished by the Board by a suspension or revocation of the permit to transport or remove dead human bodies or by a term of probation. The Board may, in lieu of any disciplinary measure, accept a penalty not to exceed five thousand dollars ($5,000) per violation.

(11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of

any vehicle in which a dead human body is transported. A permittee shall provide written notification to the Board of any change in the information required to be provided to the Board by this section or by the application for a permit within 30 days after such change takes place.

(12) If any person shall engage in or hold himself out as engaging in the business of transportation or removal of a dead human body without first having received a permit under this section, the person shall be guilty of a Class 2 misdemeanor.

(13) The Board shall have the authority to inspect any place or premises that the business of removing or transporting a dead human body is carried out and shall also have the right of inspection of any vehicle and equipment used by a permittee for the removal or transportation of a dead human body.

(d) Establishment Permit. –

(1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article.

(2) A permit shall be issued when:

a. It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment. <u>The manager shall be charged with overseeing the daily operation of the funeral establishment. If the manager leaves the employment of the funeral establishment and is the only licensee employed who is eligible to serve as manager, the funeral establishment may operate without a manager for a period not to exceed 30 days so long as: (i) the funeral establishment retains one or more licensees to perform all services requiring a license under this Article; (ii) the licensees are not practicing under the exception authorized by G.S. 90-210.25(a2) and would otherwise be eligible to serve as manager; and (iii) the funeral establishment registers the name of the licensees with the Board.</u>

b. The Board receives a list of the names of all part-time and full-time licensees employed by the establishment.

c. It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.

d. The Board receives payment of the permit fee.

(3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. If the renewal application and

renewal fee are not received in the Board's office on or before February 1, a late renewal fee, in addition to the regular renewal fee, shall be charged.

(4) The Board may place on probation, refuse to issue or renew, ~~suspend~~ suspend, or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations. In any case in which the Board is entitled to place a funeral establishment permittee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with the probation. In any case in which the Board is entitled to suspend, revoke, or refuse to renew a permit, the Board may accept from the funeral establishment permittee an offer to pay a penalty of not more than five thousand dollars ($5,000). The Board may either accept a penalty or revoke or refuse to renew a license, but not both. Any penalty under this subdivision may be in addition to any penalty assessed against one or more licensed individuals employed by the funeral establishment.

(5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment.

(d1) Embalming Outside Establishment. – An embalmer who engages in embalming in a facility other than a funeral establishment or in the residence of the deceased person shall, no later than January 1 of each year, register the facility with the Board on forms provided by the Board.

(e) Revocation; Suspension; Compromise; Disclosure. –

(1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter 150B of the General Statutes:

a. Conviction of a felony or a crime involving fraud or moral turpitude.

a1. Denial, suspension, or revocation of an occupational or business license by another jurisdiction.

b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service.

c. False or misleading advertising as the holder of a license.

d. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee.

e. Employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or

institutions by whose influence dead human bodies may be turned over to a particular licensee.

f. The payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business except as authorized by Article 13D of this Chapter.

g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral service.

h. Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.

i. Failing to treat a dead human body with respect at all times.

j. Violating or cooperating with others to violate any of the provisions of this ~~Article,~~Article or Articles 13D, 13E, or 13F of Chapter 90 of the General Statutes, any rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.

l. Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof.

m. Knowingly making any false statement on a certificate of ~~death.~~death or violating or cooperating with others to violate any provision of Article 4 or 16 of Chapter 130A of the General Statutes or any rules or regulations promulgated under those Articles as amended from time to time.

n. Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.

In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer to pay a penalty of not more than five thousand dollars ($5,000). The Board may either accept a penalty or revoke or refuse to renew a license, but not both.

(2) Where the Board finds that a licensee is guilty of one or more of the acts or omissions listed in subdivision (e)(1) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with the probation. The Board may also require satisfactory completion of remedial or educational training as a prerequisite to license reinstatement or for completing the term of probation.

No person licensed under this Article shall remove or cause to be embalmed a dead human body when he or she has information indicating crime or violence of any sort in

connection with the cause of death, nor shall a dead human body be cremated, until permission of the State or county medical examiner has first been obtained. However, nothing in this Article shall be construed to alter the duties and authority now vested in the office of the coroner.

No funeral service establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made due inquiry as to the desires of the persons who have the legal authority to direct the disposition of the decedent's body. If any persons are found, their authority and directions shall govern the disposal of the remains of the decedent. Any funeral service establishment receiving the remains in violation of this subsection shall make no charge for any service in connection with the remains prior to delivery of the remains as stipulated by the persons having legal authority to direct the disposition of the body. This section shall not prevent any funeral service establishment from charging and being reimbursed for services rendered in connection with the removal of the remains of any deceased person in case of accidental or violent death, and rendering necessary professional services required until the persons having legal authority to direct the disposition of the body have been notified.

When and where a licensee presents a selection of funeral merchandise to the public to be used in connection with the service to be provided by the licensee or an establishment as licensed under this Article, a card or brochure shall be directly associated with each item of merchandise setting forth the price of the service using said merchandise and listing the services and other merchandise included in the price, if any. When there are separate prices for the merchandise and services, such cards or brochures shall indicate the price of the merchandise and of the items separately priced.

At the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time. If fees charged by a finance company for expediting payment of life insurance proceeds to the establishment will be passed on to the person or persons responsible for payment of the funeral expenses, information regarding the fees, including the total dollar amount of the fee, shall be disclosed in writing. The statement shall have printed, typed or stamped on the face thereof: "This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)." The Board may prescribe other disclosures that a licensee shall give to consumers upon finding that the disclosure is necessary to protect public health, safety, and welfare.

(f) Unlawful Practices. – If any person shall practice or hold himself or herself out as practicing the profession or art of embalming, funeral directing or practice of funeral service or operating a funeral establishment without having complied with the ~~licensing~~ provisions of this Article, ~~he~~ the person shall be guilty of a Class 2 misdemeanor.

(g) Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may

apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

SECTION 5. G.S. 90-210.27A reads as rewritten:

"§ **90-210.27A. Funeral establishments.**

(a) Every funeral establishment shall contain a preparation room which is strictly private, of suitable size for the embalming of dead bodies. Each preparation room shall:

(1) Contain one standard type operating table.
(2) Contain facilities for adequate drainage.
(3) Contain a sanitary waste receptacle.
(4) Contain an instrument sterilizer.
(5) Have wall-to-wall floor covering of tile, concrete, or other material which can be easily cleaned.
(6) Be kept in sanitary condition and subject to inspection by the Board or its agents at all times.
(7) Have a placard or sign on the door indicating that the preparation room is private.
(8) Have a proper ventilation or purification system to maintain a nonhazardous level of airborne contamination.

(b) No one is allowed in the preparation room while a dead human body is being prepared except licensees, resident trainees, public officials in the discharge of their duties, members of the medical profession, officials of the funeral home, next of kin, or other legally authorized persons.

(c) Every funeral establishment shall contain a reposing room for dead human bodies, of suitable size to accommodate a casket and visitors.

(d) Repealed by Session Laws 1997-399, s. 14.

(e) If a funeral establishment is solely owned by a natural person, that person must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a partnership, at least one partner must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a corporation, the president, vice-president, or the chairman of the board of directors must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a limited liability company, at least one member must be licensed by the Board as a funeral director or a funeral service licensee. The licensee required by this subsection must be actively engaged in the operation of the funeral establishment.

(f) If a funeral establishment uses the name of a living person in the name under which it does business, that person must be licensed by the Board as a funeral director or a funeral service licensee.

(g) No funeral establishment ~~or other licensee under this Article~~ shall own, operate, or maintain a ~~funeral~~ chapel without first having registered the name, location, and ownership thereof with the Board; own or maintain more than two ~~funeral~~ chapels, or own or maintain a ~~funeral~~ chapel outside of a radius of 50 miles from the funeral establishment. A duly licensed person may use a ~~funeral~~ chapel for making arrangements for funeral ~~service,~~services, selling funeral ~~supplies~~ merchandise to the

~~public,~~public by photograph, video, or computer based presentation, or making financial arrangements for the rendering of ~~such~~ the service or sale of supplies, provided that ~~such~~ the uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony.

(h) All public health laws and rules apply to funeral establishments. In addition, all funeral establishments must comply with all of the standards established by the rules adopted by the Board.

(i) No funeral establishment shall use an unregistered or misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral ~~establishment~~ establishment, the use of names of deceased individuals, unless the establishment is licensed using the name at the time the new application is made, the use of names of individuals not associated with the establishment, and the use of the word "crematory" or "crematorium" in the name of a funeral establishment that does not own a crematory. If an owner of a funeral establishment owns more than one funeral establishment, the owner may not use the word "crematory" or "crematorium" in the name of more than one of its funeral establishments; except that each funeral home having a crematory on the premises may contain the term "crematory" or "crematorium" in its name.

(j) A funeral establishment will not use any name other than the name by which it is properly registered with the Board."

SECTION 6. G.S. 90-210.28 reads as rewritten:

"§ **90-210.28. Fees.**

The Board may set and collect fees, not to exceed the following amounts:

Establishment permit		
Application	~~$250.00~~	$400.00
Annual renewal	~~150.00~~	250.00
Late renewal	~~100.00~~	150.00
Establishment and embalming facility ~~inspection~~ reinspection fee		100.00
Courtesy card		
Application	~~75.00~~	100.00
Annual renewal	~~50.00~~	75.00
Out-of-state licensee		
Application	~~200.00~~	250.00
Embalmer, funeral director, funeral service		
Application-North		
Carolina-Resident	~~150.00~~	200.00
-Non-Resident	~~200.00~~	250.00
Annual Renewal-embalmer or		
funeral director	~~40.00~~	75.00
Total fee, embalmer and funeral director		
when both are held by the same person	~~60.00~~	100.00
-funeral service	~~60.00~~	100.00
Inactive Status		50.00
Reinstatement fee		50.00
Resident trainee permit		
Application		50.00
Voluntary change in supervisor		50.00
Annual renewal		35.00
Late renewal		25.00

Duplicate license certificate 25.00

Chapel registration

Application 150.00

Annual renewal 100.00

Late renewal 75.00

The Board shall provide, without charge, one copy of the current statutes and regulations relating to ~~Mortuary Science~~Funeral Service to every person applying for and paying the appropriate fees for licensing pursuant to this Article. The Board may charge all others requesting copies of the current statutes and regulations, and the licensees or applicants requesting additional copies, a fee equal to the costs of production and distribution of the requested documents."

SECTION 7. Article 13A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-210.29A-1. Examination scores not public record.**

The examination scores of applicants for licensure shall not be subject to the provisions of Chapter 132 of the General Statutes. The Board shall release to any person requesting examination scores whether or not the applicant has obtained a passing score at the time of the request."

SECTION 7.1. G.S. 90-210.60 is amended by adding a new subdivision to read:

"§ **90-210.60. Definitions.**

As used in this Article, unless the context requires otherwise:

…

(3a) "Legal representation" means the person authorized by G.S. 130A-420 who would be otherwise authorized to dispose of the remains of the preneed funeral contract beneficiary."

SECTION 8. G.S. 90-210.62 reads as rewritten:

"§ **90-210.62. Types of preneed funeral contracts; forms.**

(a) A preneed licensee may offer standard preneed funeral contracts and inflation-proof preneed funeral contracts. A standard preneed funeral contract applies the trust funds or insurance proceeds to the purchase price of funeral services and merchandise at the time of death of the contract beneficiary without ~~a guarantee~~protection against potential future price increases. An inflation-proof contract establishes ~~a fixed price~~an agreement between the preneed licensee and the purchaser for funeral services and merchandise without regard to potential future price increases. Upon written disclosure to the purchaser of a preneed funeral contract, inflation-proof contracts may permit the preneed licensee to retain all of the preneed funeral contract trust funds on deposit, and all insurance proceeds, even those in excess of the retail cost of goods and services provided, when the preneed licensee has fully performed the preneed funeral contract. Preneed funeral contracts may be revocable or irrevocable, at the option of the preneed funeral contract purchaser.

(b) The Board ~~shall approve all~~may prescribe forms for preneed funeral ~~contracts.~~contracts consistent with this Article. All contracts must be in ~~writing, and no form shall be used without prior approval of the Board.~~writing on forms prescribed by the Board. Any use or attempted use of any oral preneed funeral contract or any written contract in a form not ~~approved~~ prescribed by the Board shall be deemed a violation of this Article."

SECTION 9. Article 13D of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-210.63A. Amendment of preneed funeral contracts.**

(a) Unless otherwise provided by this Article, preneed funeral contracts may be modified by mutual consent of the contracting preneed funeral establishment and the preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative.

(b) When the preneed contract purchaser and preneed contract beneficiary are the same, the preneed contract purchaser may designate one or more individuals to change the arrangements or performing funeral establishment, or may designate that the arrangements or performing funeral establishment may not be changed without an order from the clerk of superior court in the county where probate proceedings are instituted upon a finding that the change is in the best interest of the estate.

(c) If the preneed purchaser, or after his or her death, the preneed contract beneficiary or his or her legal representative, and the contracting preneed funeral establishment agree to modify any goods or services selected under an inflation-proof contract, the preneed licensee shall not be required to guarantee the price of the modified goods and services at the time of death and all other funeral goods and service selected shall remain guaranteed. If the modifications increase the purchase price, the provisions of G.S. 90-210.64(b) shall apply as if the modified contract had been executed on the original date. If the modifications decrease the purchase price, the preneed licensee shall refund all monies according to the provisions of G.S. 90-210.64(d)."

SECTION 10. G.S. 90-210.64 reads as rewritten:

"§ **90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

(a) After the death of a preneed funeral contract beneficiary and full performance of the preneed funeral contract by the preneed licensee, the preneed licensee shall promptly complete a certificate of performance and present it to the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the insurance company that issued a preneed insurance policy pursuant to G.S. 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the financial institution shall pay the trust funds to the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. Within 10 days after receiving payment, the preneed licensee shall ~~mail~~ file a copy of the certificate of performance or other claim form to the Board.

(b) Unless otherwise specified in the preneed funeral contract, the preneed licensee shall have no obligation to deliver merchandise or perform any services for which payment in full has not yet been deposited with a financial institution or that will not be provided by the proceeds of a prearrangement insurance policy. Any such amounts received which do not constitute payment in full shall be refunded to the estate of the deceased preneed funeral contract beneficiary or credited against the cost of merchandise or services contracted for by a representative of the deceased. Any balance remaining after payment for the merchandise and services as set forth in the preneed funeral contract shall be paid to the estate of the preneed funeral contract beneficiary or the prearrangement insurance policy beneficiary named to receive any such balance. Provided, however, unless the parties agree to the contrary, there shall be no refund to the estate of the preneed funeral contract beneficiary of an inflation-proof preneed funeral ~~contract.~~contract except as required by G.S. 90-210.63A(c).

(c) In the event that any person other than the contracting preneed licensee performs any funeral service or provides any merchandise as a result of the death of the preneed funeral contract beneficiary, the financial institution shall pay the trust funds to

the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. The preneed licensee shall, subject to the provisions of G.S. 90-210.65(d), immediately pay the monies so received to the other provider.

(d) When the balance of a preneed funeral fund is one hundred dollars ($100.00) or less and is payable to the estate of a deceased preneed funeral contract beneficiary and there has been no representative of the estate appointed, the balance due may be paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a preneed funeral fund exceeds one hundred dollars ($100.00) or is not payable to the estate, the balance must be paid into the office of the clerk of superior court in the county where probate proceedings could be filed for the deceased preneed funeral contract beneficiary.

(e) Upon the fulfillment of a preneed contract, all of the following items shall be completed within 30 days:

(1) The contracting preneed licensee must submit a certificate of performance or similar claim form to the financial institution holding the preneed trust funds and close the preneed account.

(2) The proceeds of this trust account shall be distributed according to the terms of the preneed contract.

(3) A completed copy of the certificate of performance or similar claim form evidencing the final disposition of any financial institution preneed trust account funds must be filed with the Board by the contracting licensee."

SECTION 11. G.S. 90-210.65(e) reads as rewritten:

"(e) This section shall not apply to irrevocable preneed funeral contracts. Irrevocable preneed funeral contracts may ~~not~~ only be revoked ~~nor~~ or any proceeds refunded ~~except by~~by the order of a court of competent ~~jurisdiction.~~jurisdiction, except as follows:

(1) The Board may order an irrevocable contract revoked when the preneed contract beneficiary is no longer domiciled in this State and has submitted a written copy to the Board of a new preneed funeral contract executed under the laws of the state where the preneed contract beneficiary is domiciled. Upon receipt of the Board's order, the original contracting preneed licensee shall immediately follow the provisions of G.S. 90-210.63 to transfer the funds to the successor firm.

(2) ~~Notwithstanding the previous sentence, irrevocable~~Irrevocable preneed funeral contracts purchased pursuant to G.S. 90-210.61(a)(3) shall also be revocable when the underlying insurance policy lapses or is otherwise cancelled and the lapsed or cancelled policy no longer provides any funding for the preneed funeral contract."

SECTION 12. G.S. 90-210.67(b) reads as rewritten:

"(b) An application for a preneed funeral establishment license shall be accompanied by a nonrefundable application fee of not more than ~~one hundred fifty dollars ($150.00).~~four hundred dollars ($400.00). The Board shall set the amounts of the application fees ~~and renewal fees by rule, but the fees shall not exceed one hundred fifty dollars ($150.00).~~and renewal fees, by rule. A funeral establishment receiving a new preneed establishment license after January 1, 2008, or whose preneed establishment license has lapsed or was terminated for any reason after January 1, 2008, shall obtain a

surety bond in an amount not less than fifty thousand dollars ($50,000) for five years, or upon demonstrating that it is solvent, no less than one year from the date the original license is issued. The Board may extend the bonding requirement in the event there is a claim paid from the bond.

If the license is granted, the application fee shall be applied to the annual license fee for the first year or part thereof. Upon receipt of the application and payment of the application fee, the Board shall issue a renewable preneed funeral establishment license unless it determines that the applicant has violated any provision of G.S. 90-210.69(c) or has made false statements or representations in the application, or is insolvent, or has conducted or is about to conduct, its business in a fraudulent manner, or is not duly authorized to transact business in this State. The license shall expire on December 31 and each preneed funeral establishment licensee shall pay annually to the Board on or before that date a license renewal fee of not more than ~~one hundred fifty dollars ($150.00).~~two hundred fifty dollars ($250.00). On or before the first day of February immediately following expiration, a license may be renewed without paying a late fee. After that date, a license may be renewed by paying a late fee of not more than one hundred dollars ($100.00) in addition to the annual renewal fee."

SECTION 13. G.S. 90-210.68(d) reads as rewritten:

"(d) Financial institutions that accept preneed funeral trust funds and insurance companies that issue prearrangement insurance policies shall, upon request by the Board or its inspectors or examiners, disclose any information regarding preneed funeral trust accounts held or prearrangement insurance policies issued by it for a preneed licensee.

Financial institutions that accept preneed funeral trust funds and insurance companies that assign policy proceeds or designate a preneed funeral establishment as beneficiary shall also forward an account balance to the contracting preneed funeral establishment at the end of each calendar year."

SECTION 14. G.S. 90-210.68(e) reads as rewritten:

"(e) In the event that any preneed licensee is unable or unwilling or is for any reason relieved of its responsibility to perform as trustee or to perform any preneed funeral contract, the ~~Board, with the written consent of the purchaser of the preneed funeral contract, or after the purchaser's death or incapacity, the preneed funeral contract beneficiary~~ Board shall order the contract and any amounts retained pursuant to G.S. 90-210.61(a)(2) to be assigned to a substitute preneed licensee provided that ~~the substitute licensee agrees to accept such assignment.~~neither the substitute preneed licensee or preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative, shall be obligated to perform the agreement without executing a new preneed funeral contract. Any lapse or transfer of a preneed contract pursuant to this section shall not be grounds to revoke an irrevocable preneed funeral contract."

SECTION 15. G.S. 90-210.69(c) reads as rewritten:

"(c) In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

(1) Offering to engage or engaging in activities for which a license is required under this Article but without having obtained such a license.

(2) Aiding or abetting an unlicensed person, firm, partnership, association, corporation or other entity to offer to engage or engage in such activities.
(3) A crime involving fraud or moral turpitude by conviction thereof.
(4) Fraud or misrepresentation in obtaining or receiving a license or in preneed funeral planning.
(5) False or misleading advertising.
(6) Violating or cooperating with others to violate any provision of this Article, the rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
(7) Denial, suspension, or revocation of an occupational or business license by another jurisdiction.

In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than five thousand dollars ($5,000). In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with such probation."

SECTION 16. G.S. 90-210.102 reads as rewritten:

"§ **90-210.102. Hearing by Board of dispute over liability for funeral benefits; appeal.**

In case of a disagreement between the representative of a deceased member of any burial association and such deceased member's burial association a hearing may be held by the Board of Funeral Service, on request of either party, to determine whether the association is liable for the benefits set forth in the policy issued to the said deceased member of said burial association. The Board of Funeral Service shall render a decision which shall have the same force and effect as judgments rendered by courts of competent jurisdiction in North Carolina. Either party may appeal from the decision of the Board of Funeral Service. Appeal shall be to the district court division of the General Court of Justice in the county in which the burial association is located. The procedure for appeal shall be the same as the appeal procedure set forth in Article 19 of Chapter 7A of the General Statutes of North Carolina regulating appeals from the magistrate to the district court. ~~Upon appeal trial shall be de novo.~~"

SECTION 17. G.S. 90-210.107 reads as rewritten:

"§ **90-210.107. Acquisition, merger, dissolution, and liquidation of mutual burial associations.**

(a) Any insurance company which desires to purchase the assets of or to merge with a burial association as provided in G.S. 90-210.106 shall submit to the Board of Funeral Service and to the secretary of the association a written proposal containing the terms and conditions of the proposed purchase or merger. A proposal may be conditioned upon an increase in the assessments of an association in the manner set out in subsection (g) of this section. In such a case, the issues of purchase or merger and an increase in assessments may be considered at the same meeting of the association.

(b) Upon receipt of a written proposal:
(1) The Board shall issue an order directing the association to hold a meeting of the membership within 30 days following receipt of the order for the purpose of voting on the proposal.

(2) Within 10 days of receiving the order from the Board, the association shall give at least 10 days' written notice of the meeting to each of its members. The notice shall:

a. State the date, time, and place of the meeting.

b. State the purpose of the meeting.

c. Contain or have attached the proposal submitted by the insurance company.

d. Contain a statement limiting the time that each member will be permitted to speak to the proposal, if the association deems it advisable.

e. Contain a written proxy form and instructions concerning the proxy prescribed by the Board.

(c) A representative of the insurance company shall be permitted to attend the meeting held by the association for the purposes of explaining the proposal and answering any questions from the members. The officers of the association may present their views concerning the proposal. Any member of the association who wishes to speak to the proposal shall be permitted to do so subject to any time limitation stated in the notice of the meeting.

(d) The secretary of the association shall record the name of every member who is present at the meeting or has issued a written proxy pursuant to G.S. 55A-7-24 and shall determine whether there is a quorum. The presence of 15 members or ten percent (10%) of the membership, whichever is greater, shall constitute a quorum. Acceptance or rejection of the proposal shall be by majority vote of the members ~~present and~~ voting. Any member who is at least 18 years of age shall be permitted to vote. A parent or guardian of any member who is under 18 years of age may vote on behalf of his or her child or ward, but only one vote may be cast on behalf of that member.

(e) The secretary of the association shall certify the result of the vote and the presence of a quorum to the Board within five days following the meeting and shall include with the certification a copy of the notice of the meeting that was sent to the members of the association.

(f) The Board shall immediately review the certification, the notice, and any other records that may be necessary to determine the adequacy of notice, the presence of a quorum, and the validity of the vote. Upon determining that the meeting and vote were regular and held following proper notice and that a majority of a quorum of the members voted in favor of the proposal, the Board shall issue an order approving the purchase or merger and directing that the purchase or merger proceed in accordance with the proposal.

(g) Any burial association whose current assessments are not, or are unlikely to be within the next three years, adequate to reach or maintain a reserve of at least twenty-one dollars ($21.00) per member or are inadequate to meet the requirements of a proposal from an insurance company to acquire the assets of or to merge with the association may increase its assessments by an amount necessary to reach and maintain the reserve or to meet the proposal. The increase shall be approved by a vote of the members of the association at a regular meeting of the association or at a special meeting called for the purpose of increasing assessments.

(1) Any officer or director of the association may call a special meeting for the purpose of increasing assessments, and the secretary shall call a special meeting for such purpose upon the request of at least ten percent (10%) of the members or upon receipt of a proposal from an

insurance company that is conditioned upon an increase in assessments.

(2) Written notice setting out the date, time, place, and the purpose of the meeting shall be hand delivered or sent by first-class mail, postage prepaid, to the last known address of each member of the association at least 10 days in advance of the meeting.

(3) No vote may be had on the question of an increase in assessments unless a quorum of the members of the association is present at the meeting. A quorum shall be conclusively presumed if 15 members or ten percent (10%) of the membership of the association, whichever is greater, is present at the meeting.

(4) The proposal to increase the assessments shall be approved by an affirmative vote of a majority of the members present and voting.

(5) The secretary of the association within five days following the meeting shall certify the result of the vote and the presence of a quorum to the Board in the manner and for the purposes set out in subsections (e) and (f) of this section.

(h) Upon a written request from an association that has held a valid meeting and voted for voluntary dissolution in accordance with G.S. 90-210.81, the Board shall issue an order of liquidation for that association.

(i) Upon receipt of a request for voluntary dissolution under subsection ~~(h),~~(h) of this section or if the sponsoring funeral establishment has its permit revoked or ceases operation for any reason, the Board shall issue an order of liquidation. The Board's order may direct that the agreements for members' benefits be transferred to a financially sound mutual burial association, as well as all records, property, and unexpended balances of funds of the association to be liquidated, if the financially sound mutual burial association agrees in writing to accept the transfer. The Board's order shall direct the burial association to complete the liquidation and to file a final report with the Board no later than December 31 of the year of the liquidation. Upon receipt of the order of liquidation, the burial association shall:

(1) Cease accepting new members.

(2) Collect all debts owed to the association and pay all debts owed by the association from monies on hand, including the reserve.

(3) Distribute pro rata any remaining monies on hand and in the reserve among those who were members of the association and whose transfer could not be accomplished on the date that the liquidation order was issued by the Board. Each member's distributive share shall be determined by dividing the amount of the member's benefit by the aggregate benefits of all members of the association and then multiplying the total amount of money available for distribution by the percentage so derived. Assessments owed by the members to the association at the time of distribution shall be taken into account and shall be offset against the members' distributive shares.

(4) Issue a certificate to members in an amount that equals the difference between the distributive share issued in subdivision (3) of this subsection and the full amount of the member's association benefit. Any certificate issued shall supersede and supplant any other certificate already issued by the association. The certificate shall be on

a form prescribed by the Board and shall be prepared and distributed by the association at its expense.

(5) File a final report with the Board on or before December 31 in the year in which the order of liquidation was issued. This report shall show all receipts and disbursements, including the amount distributed to each member, since the last annual report of the association was filed with the Board.

(j) A certificate issued under subsection (i) of this section may be used as a credit toward the cost of funeral services, facilities, and merchandise at any funeral establishment that agrees on forms prescribed by the Board to accept such certificates. A funeral establishment that agrees to accept certificates shall do so until the agreement with the Board expires. The Board shall maintain and distribute to the public a list of funeral establishments that will accept certificates.

(k) Upon receipt of the final report of dissolution by the association, which is required by subsection (i) of this section, the Board shall immediately review the final report and shall notify the association whether the report is complete and has been accepted. Upon acceptance of the final report by the Board, all licenses issued to soliciting agents of the association pursuant to G.S. 90-210.84 are automatically cancelled."

SECTION 18. G.S. 90-210.121 reads as rewritten:

"§ **90-210.121. Definitions.**

As used in this Article, unless the context requires otherwise:

(1) "Authorizing agent" means a person legally entitled to authorize the cremation of human remains in accordance with G.S. 90-210.124.

(2) "Board" means the North Carolina Board of Funeral Service.

(3) "Body parts" means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion thereof that have been donated to science for medical purposes.

(4) "Casket" means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, or other material and ornamented and lined with fabric, and which may or may not be combustible.

(5) "Certificate of cremation" means a certificate provided by the crematory manager who performed the cremation containing, at a minimum, the following information:

a. Name of decedent;

b. Date of cremation;

c. Name and address of crematory; and

d. Signature of crematory manager or person acting as crematory manager.

(6) "Cremated remains" means all human remains recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions.

(7) "Cremation" means the technical process, using intense heat and flame, that reduces human remains to bone fragments. Cremation includes the processing and may include the pulverization of the bone fragments.

(8) "Cremation chamber" means the enclosed space within which the cremation process takes place. Cremation chambers covered by this Article shall be used exclusively for the cremation of human remains.

(9) "Cremation container" means the container in which the human remains are transported to the crematory or placed therein upon arrival for storage and placement in a cremation chamber for cremation. A cremation container shall comply with all of the following standards:

a. Be composed of readily combustible materials suitable for cremation;

b. Be able to be closed in order to provide a complete covering for the human remains;

c. Be resistant to leakage or spillage;

d. Be rigid enough for handling with ease;

e. Be able to provide protection for the health, safety, and personal integrity of crematory personnel; and

f. Be easily identifiable. The covering of the cremation container shall contain the following information:

1. The name of the decedent;

2. The date of death;

3. The sex of the decedent; and

4. The age at death of the decedent.

(10) "Cremation interment container" means a rigid outer container composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

(11) "Crematory" or "crematorium" means the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. A crematory must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.

(12) "Crematory licensee" means the individual or legal entity that is licensed by the Board to operate a crematory and perform cremations.

(13) "Crematory manager" means the person who is responsible for the management and operation of the crematory. A crematory manager must either be licensed to practice funeral directing or funeral service and be qualified as a crematory technician or must obtain a crematory manager permit issued by the Board. In order to receive a crematory manager permit, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be qualified as a crematory technician.

Notwithstanding any other provision of law, a crematory that is licensed by the Board prior to January 1, 2004, and as of that date is not managed by a crematory manager who is licensed to practice funeral directing or funeral service, or who has a crematory manager permit, may continue to be managed by a crematory manager who is

not licensed to practice funeral directing or funeral service or who does not have a crematory manager permit so long as there is no sale, transfer, devise, bequest, gift, or any other disposal of a controlling interest in the crematory.

(13a) "Cremation society" means any person, firm, corporation, or organization that is affiliated with a crematory licensed under this Article and provides cremation information to consumers.

(14) "Crematory technician" means any employee of a crematory licensee who has a certificate confirming that the crematory technician has attended a training course approved by the Board. The Board shall recognize the cremation certificate program that is conducted by the Cremation Association of North America (CANA).

(15) "Final disposition" means the cremation and the ultimate interment, entombment, inurnment, or scattering of the cremated remains or the return of the cremated remains by the crematory licensee to the authorizing agent or such agent's designee as provided in this Article. Upon the written direction of the authorizing agent, cremated remains may take various forms.

(16) "Holding and processing facility" means an area or areas that are designated for the retention of human remains prior to, and the retention and processing of cremated remains after, cremation; that comply with all applicable public health and environmental laws; preserve the health and safety of the crematory technician and other personnel of the crematory; and that are secure from access by anyone other than authorized persons. A holding facility and processing facility must be located in a crematory.

(17) "Human remains" means the body of a deceased person, including a separate human fetus, regardless of the length of gestation, or body parts.

(17a) "Initial container" means a receptacle for cremated remains, for which the intended use and design is to hold cremated remains, usually composed of cardboard, plastic, or similar material that can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and is a single container of sufficient size to hold the cremated remains.

(18) "Niche" means a compartment or cubicle for the memorialization or final disposition of an urn or container containing cremated remains.

(19) "Processing" means the removal of bone fragments from the cremation chamber for the reduction in size, labeling and packaging, and placing in an urn or ~~temporary~~ initial container.

(20) "Pulverization" means the reduction of identifiable or unidentifiable bone fragments after the completion of the cremation to granulated particles by mechanical means.

(21) "Scattering area" means an area permitted by North Carolina law including, but not limited to, an area designated by a cemetery and located on dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.

~~(22) "Temporary container" means a receptacle for cremated remains, usually composed of cardboard, plastic, or similar material which can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and which is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.~~

(23) "Urn" means a receptacle designed to permanently encase the cremated remains."

SECTION 19. G.S. 90-210.122(c) reads as rewritten:

"(c) The initial terms of the members of the Crematory Authority shall be staggered by the appointing authorities so that the terms of three members (two of which shall be appointees of the Governor) expire December 31, 1991, the terms of two members (both of which shall be appointees of the Governor) expire December 31, 1992, and the terms of the remaining two members (one of which shall be an appointee of the Governor) expire December 31, 1993.

As the terms of the members appointed by the Governor expire, their successors shall be elected from among a list of nominees in an election conducted by the Board in which all licensed crematory operators are eligible to vote. The Board ~~may~~ shall conduct the election for members of the Crematory Authority ~~simultaneously with the election for members of the Board or at any other time. The Board~~and shall prescribe the procedures and establish the time and date for nominations and elections to the Crematory Authority. A nominee who receives a majority of the votes cast shall be declared elected. The Board shall appoint the successors to the two positions for which it makes initial appointments pursuant to this section.

The terms of the elected members of the Crematory Authority shall be three years. The terms of the members appointed by the Board, including the members initially appointed pursuant to this subsection, shall be coterminous with their terms on the Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term by majority vote of the remaining members of the Crematory Authority. Any vacancy occurring in a seat appointed by the Governor shall be filled by the Governor. Any vacancy occurring in a seat appointed by the Board shall be filled by the Board."

SECTION 20. G.S. 90-210.123(g) is amended by adding a new subdivision to read:

"(g) Whenever the Board finds that an owner, partner, crematory manager, member, officer, or any crematory technician of a crematory licensee or any applicant to become a crematory licensee, or that any authorized employee, agent, or representative has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with Chapter 150B of the General Statutes:

…

(1a) Denial, suspension, or revocation of an occupational or business license by another jurisdiction.

…."

SECTION 21. G.S. 90-210.123(i) reads as rewritten:

"(i) The Board may hold hearings in accordance with the provisions of this Article and Chapter 150B of the General Statutes. The Board shall conduct any such hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The

Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected. The Board may obtain preliminary and final injunctions whenever a violation of this Article has occurred or threatens to occur.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor."

SECTION 22. G.S. 90-210.124(a) reads as rewritten:

"§ **90-210.124. Authorizing agent.**

(a) The following person, in the priority list below, shall have the right to serve as an "authorizing agent":

(1) ~~An individual at least 18 years of age may authorize the cremation and disposition of the individual's own dead body in a written will, pursuant to health care power of attorney to the extent provided in Article 3 of Chapter 32 of the General Statues, pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form executed pursuant to Article 13F of Chapter 90 of the General Statutes, or in a written statement signed by the individual and witnessed by two persons who are at least 18 years old.~~An individual at least 18 years of age may authorize the type, place, and method of disposition of the individual's own dead body by methods in the following order:

a. Pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes.

b. Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes.

c. Pursuant to a written will.

d. Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.

When an individual has authorized his or her own cremation and disposition in accordance with this subsection, the individual or institution designated by that individual shall act as the authorizing agent for that individual.

(2) If a decedent has left no written authorization for the cremation and disposition of the decedent's body as permitted under subdivision (1) of this subsection, the following competent persons in the order listed may authorize the type, method, place, cremation, and disposition of the decedent's body:

a. The surviving spouse.
b. A majority of the surviving children who are at least 18 years of age and can be located after reasonable efforts.
c. The surviving parents.
d. A majority of the surviving siblings who are at least 18 years of age and can be located after reasonable efforts.
e. A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.
f. A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the cremation and disposition.
g. In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent may serve as the authorizing agent.
h. In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of such institution may serve as the authorizing agent in the absence of any of the above.
i. In the absence of any of the above, any person willing to assume responsibility as authorizing agent, as specified in this act.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to cause or prohibit the substitution of a preneed licensee as authorized under G.S. ~~90-210.63.~~90-210.63 or permit modification of preneed contracts under G.S. 90-210.63A. If a person under this subsection is incompetent at the time of the decedent's death, the person shall be treated as if he or she predeceased the decedent. An attending physician may certify the incompetence of a person and the certification shall apply to the rights under this subsection only. Any person under this subsection may waive his or her rights under this subsection by any written statement notarized by a notary public or signed by two witnesses."

SECTION 23. G.S. 90-210.129 reads as rewritten:

"§ **90-210.129. Cremation procedures.**

(a) In deaths certified by the attending physician, the body shall not be cremated before the crematory licensee receives a death certificate signed by the attending physician, which shall contain at a minimum the following information:

(1) Decedent's name;
(2) Date of death;
(3) Date of birth;
(4) Sex;
(5) Place of death;

(6) Facility name (if not institution, give street and number);
(7) County of death;
(8) City of death; and
(9) Time of death (if known).

(b) When required by G.S. 130A-388 and the rules adopted pursuant to that section or by successor statute and the rules pursuant to it, a cremation authorization form signed by a medical examiner shall be received by the crematory prior to cremation.

(c) In deaths coming under full investigation by the Office of the Chief Medical Examiner, a burial-transit permit/cremation authorization form must be received by the crematory before cremation.

(d) No body shall knowingly be cremated with a pacemaker or defibrillator or other potentially hazardous implant or condition in place. The authorizing agent for the cremation of the human remains shall be responsible for taking all necessary steps to ensure that any pacemaker or defibrillator or other potentially hazardous implant or condition is removed or corrected prior to cremation. If an authorizing agent informs the funeral director and the crematory licensee on the cremation authorization form of the presence of a pacemaker or defibrillator or other potentially hazardous implant or condition in the human remains, then the funeral director shall be responsible for ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or other potentially hazardous implant or to correct the hazardous condition before delivering the human remains to the crematory.

(e) Human remains shall not be cremated within 24 hours after the time of death, unless such death was a result of an infectious, contagious, or communicable and dangerous disease as listed by the Commission of Health Services, pursuant to G.S. 130A-134, and unless such time requirement is waived in writing by the medical examiner, county health director, or attending physician where the death occurred.

(f) No unauthorized person shall be permitted in view of the cremation chamber or in the holding and processing facility while any human remains are being removed from the cremation container, processed, or pulverized. Relatives of the deceased and their invitees, the authorizing agent and the agent's invitees, medical examiners, Inspectors of the North Carolina Board of Funeral Service, and law enforcement officers in the execution of their duties shall be authorized to have access to the crematory area, subject to the rules adopted by the crematory licensee governing the safety of such individuals.

(g) Human remains shall be cremated only while enclosed in a cremation container. Upon completion of the cremation, and insofar as is possible, all of the recoverable residue of the cremation process shall be removed from the cremation chamber. Insofar as is possible, all residue of the cremation process shall then be separated from any foreign residue or anything else other than bone fragments and then be processed by pulverization so as to reduce the cremated remains to unidentifiable particles. Any foreign residue and anything other than the particles of the cremated remains shall be removed from the cremated remains as far as possible and shall be disposed of by the crematory licensee. This section does not apply where law otherwise provides for commingling of human remains. The fact that there is incidental and unavoidable residue in the cremation chamber used in a prior cremation is not a violation of this subsection.

(h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden.

(i) Every crematory shall have a holding and processing facility, within the crematory, designated for the retention of human remains prior to cremation. The holding and processing facility must comply with any applicable public health laws and rules and must meet all of the standards established pursuant to rules adopted by the Board.

(j) Crematory licensees shall comply with standards established by the Board for the processing and pulverization of human remains by cremation.

(k) Nothing in this Article shall require a crematory licensee to perform a cremation that is impossible or impractical to perform.

(l) The cremated remains with proper identification shall be placed in ~~a temporary~~an initial container or the urn selected or provided by the authorizing agent. The ~~temporary~~ initial container or urn contents shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent or as provided in subsection (g) of this section.

(m) If the cremated remains are greater than the dimensions of ~~a temporary~~an initial container or urn, the excess cremated remains shall be returned to the authorizing agent or its representative in a separate container or urn.

(n) If the cremated remains are to be shipped, the ~~temporary~~ initial container or urn shall be packed securely in a suitable shipping container that complies with the requirements of the shipper. Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery, unless otherwise authorized in writing by the authorizing agent. Cremated remains shall be shipped to the proper address as stated on the cremation authorization form signed by the authorizing agent.

(o) Unless the provisions of G.S. 130A-114 apply, before cremation the crematory licensee shall receive a written statement, on a form prescribed by the Board and signed by the attending physician, acknowledging the circumstances, date, and time of the delivery of the fetal remains from the mother. If after reasonable efforts no physician can be identified with knowledge and information sufficient to complete the written statement required by this subsection, the crematory licensee shall obtain documentation of the circumstances, date, and time of delivery of the fetal remains prepared by a hospital, medical facility, law enforcement agency, or other entity. Notwithstanding any other provision of law, health care providers may release to a licensee, in accordance with the federal Standards for Privacy of Individually Identifiable Health Information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), medical records that document the circumstances, date, and time of delivery of fetal remains. If the crematory licensee cannot identify documents sufficient to meet the requirements of this subsection, the licensee shall report to the local medical examiner pursuant to G.S. 130A-383(a).

(p) If the provisions of Article 4 of Chapter 130A of the General Statutes apply, the crematory licensee shall receive a fetal report of death as prescribed in G.S. 130A-114.

(q) Before the cremation of amputated body parts, the crematory licensee shall receive a written statement, on a form prescribed by the Board and signed by the attending physician, acknowledging the circumstances of the amputation. If after reasonable efforts no physician can be identified with knowledge and information sufficient to complete the written statement required by this subsection, the crematory licensee shall notify the local medical examiner pursuant to G.S. 130A-383(b). This

section does not apply to the disposition of body parts cremated pursuant to Part 3 of Article 16 of Chapter 130A of the General Statutes."

SECTION 24. G.S. 90-210.130(b) reads as rewritten:

"(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or the agent's representative has not specified the final disposition or claimed the cremated remains, the crematory licensee or the person in possession of the cremated remains may release the cremated remains to another family member upon written notification to the authorizing agent delivered by certified mail or dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory licensee for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition. Upon disposing of cremated remains in accordance with this section, the crematory licensee or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains."

SECTION 25. Article 13F of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"**§ 90-210.135. Cremation societies.**

(a) No person, firm, or corporation licensed as a crematory under the provisions of this Article may operate a cremation society without first registering the name of the cremation society with the Board."

SECTION 26. G.S. 130A-420 reads as rewritten:

"**§ 130A-420. Authority to dispose of body or body parts.**

(a) An individual at least 18 years of age may authorize the type, place, and method of disposition of the individual's own dead body ~~in a written will, pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes, pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes, or in a written statement signed by the individual and witnessed by two persons who are at least 18 years old.~~by methods in the following order:

(1) Pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes.

(2) Pursuant to a written will.

(3) Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.

(4) Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes.

An individual may also delegate his or her right to dispose of his or her own dead human body to any person by any means authorized in subdivisions (1) through (3) of this subsection.

(b) If a decedent has left no written authorization for the disposal of the decedent's body as permitted under subsection (a) of this section, the following competent persons in the order listed may authorize the type, method, place, and disposition of the decedent's body:

(1) The surviving spouse.

(2) A majority of the surviving ~~children.~~children over 18 years of age, who can be located after reasonable efforts.

(3) The surviving parents.

(4) A majority of the surviving ~~siblings.~~siblings over 18 years of age, who can be located after reasonable efforts.

(5) A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died ~~intestate.~~intestate who are at least 18 years of age and can be located after reasonable efforts.

(6) A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the disposition.

(7) In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent.

(8) In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of the institution.

(9) In the absence of any of the persons described in subdivisions (1) through (8) of this subsection, any person willing to assume responsibility for the disposition of the body.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General ~~Statutes or~~ Statutes, to prohibit the substitution of a preneed licensee as authorized under G.S. ~~90-210.63.~~90-210.63, or to permit modification of preneed contracts under G.S. 90-210.63A. If an individual is incompetent at the time of the decedent's death, the individual shall be treated as if he or she predeceased the decedent. An attending physician may certify the incompetence of an individual and the certification shall apply to the rights under this section only. Any individual under this section may waive his or her rights under this subsection by any written statement notarized by a notary public or signed by two witnesses.

(b1) A person who does not exercise his or her right to dispose of the decedent's body under subsection (b) of this section within five days of notification or 10 days from the date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or contest disposition in accordance with this section.

(c) An individual at least 18 years of age may, in a writing signed by the individual, authorize the disposition of one or more of the individual's body parts that has been or will be removed. If the individual does not authorize the disposition, a person listed in subsection (b) of this section may authorize the disposition as if the individual was deceased.

(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes."

SECTION 27. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:51 a.m. on the 31st day of August, 2007.

Session Law 2007-532 **House Bill 265**

AN ACT TO ESTABLISH THE NORTH CAROLINA HEALTH INSURANCE RISK POOL.

The General Assembly of North Carolina enacts:

SECTION 1.1. Article 50 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 6. North Carolina Health Insurance Risk Pool.

"**§ 58-50-175. Definitions.**

The following definitions apply to this Part:

(1) "Administrator" – The Pool Administrator selected by the Executive Director in accordance with this Part.

(2) "Benefit plan" – The coverage offered by the Pool to eligible individuals.

(3) "Board" – The Board of Directors of the Pool.

(4) "Commissioner" – The Commissioner of Insurance of North Carolina or the Commissioner's authorized designee.

(5) "Covered person" – Any individual resident of this State, excluding dependents, who is receiving or is eligible to receive medical care benefits from any insurer.

(6) "Creditable coverage" – The same meaning as defined in G.S. 58-68-30(c)(1).

(7) "Dependent" – A resident spouse, an unmarried child under the age of 19 years, a child who is a full-time student under the age of 23 years and who is financially dependent upon the parent or guardian, a child who is over 18 years of age and for whom a person may be obligated to pay child support, or a child of any age who is disabled and dependent upon the parent or guardian.

(8) "Executive Director" – The individual selected by a majority vote of the Board members and hired to serve as the Executive Director of the Pool.

(9) "Federally defined eligible individual" – The same meaning as the defined term "eligible individual" in G.S. 58-68-60(b).

(10) "Health insurance coverage" – The same meaning as defined in G.S. 58-68-25(a)(5) but does not include benefits described in G.S. 58-68-25(b).

(11) "Insurance arrangement" – The plan, program, contract, or other arrangement through which medical care is provided by an employer to its officers or employees but does not include medical care covered through an insurer.

(12) "Insured" – An individual who is eligible to receive benefits from the Pool.

(13) "Insurer" – Any entity, other than the Pool, that provides medical care benefits, including excess or stop-loss insurance, that covers medical care or administers medical care on any individual in this State. For the purposes of this Part, insurer includes:

a. An insurance company;
b. A hospital or medical service corporation;
c. A health maintenance organization;
d. A multiple employer welfare arrangement;
e. A third-party administrator or claims processor; and
f. Any other nongovernmental entity providing a health benefit plan subject to State insurance regulation.

Insurer does not include an entity to the extent the entity provides excepted benefits as defined in G.S. 58-68-25(b).

(14) "Medical care" – All of the following:

a. The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
b. Transportation primarily for and essential to medical care referred to in sub-subdivision a. of this subdivision; and
c. Insurance covering medical care referred to in sub-subdivisions a. and b. of this subdivision.

(15) "Plan of Operation" – The articles, bylaws, and operating rules and procedures adopted by the Board in accordance with this Part.

(16) "Pool" – The North Carolina Health Insurance Risk Pool.

(17) "Provider" – An individual or entity that provides medical care to individuals residing in this State.

(18) "Resident" – An individual who has legal status in the United States and who:

a. Has been legally domiciled in this State for a period of at least 30 days, except that for a federally defined eligible individual, there shall not be a 30-day requirement;
b. Is legally domiciled in this State on the date of application to the Pool and who is eligible for enrollment in the Pool as a result of the Health Insurance Portability and Accountability Act of 1996; or
c. Is legally domiciled in this State on the date of application to the Pool and is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986.

(19) "Special Fund." – The North Carolina Health Insurance Risk Pool Special fund.

(20) "Trade Adjustment Assistance Program" (TAA) – Title II of the Trade Act of 2002, P.L. 107-210.

"**§ 58-50-180. Risk Pool established; board of directors; plan of operation.**

(a) There is hereby created a nonprofit entity to be known as the North Carolina Health Insurance Risk Pool. Notwithstanding that the Pool may be supported in whole or in part from State funds, the Pool is not an instrumentality of the State. The Pool shall operate under the supervision and control of the Board.

(b) The Board of the North Carolina Health Insurance Risk Pool shall consist of the Commissioner, who shall serve as an ex officio nonvoting member of the Board, and 11 members appointed as follows:

(1) One member who represents an insurer, as appointed by the Governor.

(2) Two members of the general public who are not employed by or affiliated with an insurance company or plan, group hospital, or other health care provider and can reasonably be expected to qualify for coverage in the Pool. Members of the general public include individuals whose only affiliation with health insurance or health care coverage is as a covered member. The two members of the general public shall be appointed by the General Assembly, as follows:

a. One member upon the recommendation of the President Pro Tempore of the Senate.

b. One member upon the recommendation of the Speaker of the House of Representatives.

(3) Eight members appointed by the Commissioner, as follows:

a. One insurer who sells individual health insurance policies.

b. One who represents the insurance industry, as recommended by the insurer who covers the largest number of persons in the State.

c. One who is licensed to sell health insurance in this State.

d. Two who represent the medical provider community, one as recommended by the North Carolina Medical Society, and one as recommended by the North Carolina Hospital Association.

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

f. One who represents small business, as recommended by the National Federation of Independent Business.

g. One who is either a health policy researcher or a health economist with experience relating to the operation of health insurance risk pools.

(c) The initial appointments by the Governor and the General Assembly upon the recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve a term of three years. The initial appointments by the Commissioner under sub-subdivisions a., b., and d. of subdivision (b)(3) of this section shall be for a term of two years. The initial appointments by the Commissioner under sub-subdivisions c., e., f., and g. of subdivision (b)(3) of this section shall be for a term of one year. All succeeding appointments shall be for terms of three years. Members shall not serve for more than two successive terms.

A Board member's term shall continue until the member's successor is appointed by the original appointing authority. Vacancies shall be filled by the appointing authority for the unexpired portion of the term in which they occur. A Board member may be removed by the appointing authority for cause.

The Board shall meet at least quarterly upon the call of the chair. A majority of the total membership of the Commission shall constitute a quorum.

The Commissioner shall appoint a chair to serve for the initial two years of the Plan's operation. Subsequent chairs shall be elected by a majority vote of the Board members and shall serve for two-year terms. Board members shall receive travel

allowances under G.S. 138-6 when traveling to and from meetings of the Board, but shall not receive any subsistence allowance or per diem under G.S. 138-5.

(d) The Board shall submit to the Commissioner a Plan of Operation for the Pool and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the Plan of Operation. The Plan of Operation shall become effective upon approval in writing by the Commissioner consistent with the date on which the coverage under this Part must be made available. If the Board fails to submit a suitable Plan of Operation within 180 days after the appointment of the Board, or at any time thereafter fails to submit suitable amendments to the Plan of Operation, the Commissioner shall adopt temporary rules necessary or advisable to effectuate the provisions of this section. The rules shall continue in force until modified by the Commissioner or superseded by a Plan of Operation submitted by the Board and approved by the Commissioner. The Plan of Operation shall:

(1) Establish procedures for operation of the Pool.

(2) Establish procedures for selecting a Pool Administrator in accordance with G.S. 58-50-185.

(3) Establish procedures to create a fund for administrative expenses, which shall be managed by the Board.

(4) Establish procedures for the collection, handling, disbursing, accounting, and auditing of assets, monies, and claims of the Pool and the Pool Administrator.

(5) Develop and implement a program to publicize the existence of the Pool, the eligibility requirements, procedures for enrollment, and availability of State premium subsidies and to maintain public awareness of the Pool.

(6) Establish procedures under which applicants and participants may have grievances reviewed by a grievance committee appointed by the Executive Director in accordance with G.S. 58-50-230.

(7) Establish procedures for identifying and confirming income levels of applicants for Pool coverage who are eligible to receive a State premium subsidy, if a State premium subsidy is available.

(8) Provide for other matters as may be necessary and proper for the execution of the Executive Director's powers, duties, and obligations under this Part.

(e) The Pool shall have the general powers and authority granted under the laws of this State to health insurers and the specific authority to do all of the following:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this Part, including the authority, with the approval of the Executive Director in collaboration with the Board, to enter into contracts with similar plans of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions.

(2) Sue or be sued.

(3) Take legal action as necessary to:

a. Avoid the payment of improper claims against the Pool or the coverage provided by or through the Plan.

b. Recover any amounts erroneously or improperly paid by the Plan.

c. Recover any amounts paid by the Pool as a result of mistake of fact or law.

d. Recover other amounts due the Pool.

(4) Establish rates and rate schedules in accordance with this Part.

(5) Issue policies of insurance in accordance with the requirements of this Part.

(6) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the Pool, policy, and other contract design, and any other function within the Pool's authority.

(7) Establish policies, conditions, and procedures for reinsuring risks of participating health insurers, as defined in G.S. 58-68-25(a), desiring to issue Pool coverage in their own name. Provision of reinsurance shall not subject the Pool to any of the capital or surplus requirements, if any, otherwise applicable to reinsurers.

(8) Employ and fix the compensation of employees.

(9) Prepare and distribute certificate of eligibility forms and enrollment instruction forms to insurance producers and to the general public.

(10) Provide for reinsurance for the Pool.

(11) Issue additional types of health insurance policies to provide optional coverage, including Medicare supplemental insurance coverage.

(12) Provide for and employ cost containment measures and requirements including preadmission screening, second surgical opinion, concurrent utilization review, disease management, individual case management, health and wellness programs including a smoking cessation initiative, and other commonly used benefit plan design features for the purpose of making health insurance coverage offered by the Pool more cost-effective.

(13) Design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services, including establishing or contracting with preferred provider organizations, health maintenance organizations, and other limited network provider arrangements.

(14) Adopt bylaws, policies, and procedures as may be necessary or convenient for the implementation of this Part and the operation of the Pool.

(f) The Executive Director, with the approval of the Board, shall operate the Pool in a manner so that the estimated cost of providing the benefit plans offered during any calendar year is not anticipated to exceed the total income the Pool expects to receive from policy premiums and other revenue available to the Pool. The Board may impose a cap on enrollment or may suspend enrollment for an indefinite period if the Board finds that estimated costs are anticipated to exceed income, except that any enrollment cap or suspension shall not apply to federally defined eligible individuals who are eligible to enroll in the Pool pursuant to G.S. 58-50-195(a)(5).

(g) The Executive Director shall make an annual report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Commissioner, the Joint Legislative Health Care Oversight Committee, and the Committee on Employee Hospital and Medical Benefits. The report shall summarize the activities of the Pool in the preceding calendar year, including the net written and earned premiums, benefit plan enrollment, the expense of administration, and the paid and incurred losses.

(h) Neither the Board nor the employees of the Pool are liable for any obligations of the Pool. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the Pool or its agents or employees, the Board, the Executive Director, or the Commissioner or the Commissioner's representatives for any action taken by them in good faith in the performance of their powers and duties under this Part.

(i) The members of the Board are public servants under G.S. 138A-3(30) and are subject to the provisions of Chapter 138A of the General Statutes.

"**§ 58-50-185. Administrator.**

(a) The Executive Director, in collaboration with the Board, shall select through a competitive bidding process one or more insurers to administer the Pool. The Executive Director shall evaluate bids submitted based on criteria established by the Board. The criteria shall allow for the comparison of information about each bidding administrator and selection of a Pool Administrator based on at least the following:

(1) Proven ability to handle health insurance coverage to individuals.
(2) Efficiency and timeliness of the claim processing procedures.
(3) Estimated total charges for administering the Pool.
(4) Ability to apply effective cost containment programs and procedures and to administer the Pool in a cost-efficient manner.
(5) Financial condition and stability.
(6) Evidence of authority to provide third-party administrative services in North Carolina.

(b) The Administrator shall serve for a period specified in the contract between the Pool and the Administrator subject to removal for cause and subject to any terms, conditions, and limitations of the contract between the Pool and the Administrator. At least one year before the expiration of each period of service by an Administrator, the Executive Director shall invite eligible entities, including the current Administrator, unless the current Administrator was removed for cause, to submit bids to serve as the Administrator. Selection of the Administrator for the succeeding period shall be made at least six months before the end of the current period.

(c) The Administrator shall perform such functions relating to the Pool as may be assigned to it, including:

(1) Verification of eligibility.
(2) Payment of claims.
(3) Establishment of a premium billing procedure for collection of premiums from individuals covered under the Pool.
(4) Other necessary functions to assure timely payment of benefits to covered persons under the Pool.

(d) The Administrator shall submit regular reports to the Executive Director and the Board regarding the operation of the Pool. The contract between the Pool and the Administrator shall specify the frequency, content, and form of the report.

(e) Following the close of each calendar year, the Administrator shall determine net written and earned premiums, the expense of administration, and the paid and incurred losses for the year and report this information to the Executive Director and the Board on a form prescribed by the Executive Director.

(f) The Administrator shall be paid as provided in the contract between the Pool and the Administrator.

"**§ 58-50-190. Risk Pool rates and policy forms.**

(a) The Pool shall adopt and modify, as appropriate, rates, rate schedules, rate adjustments, expense allowances, agent referral fees, claim reserve formulas, and any other actuarial function appropriate to the operation of the Pool. Rates and rate schedules may be adjusted for appropriate factors such as age, sex, and geographic variation in claim cost and shall take into consideration appropriate rating factors in accordance with established actuarial and underwriting practices.

(b) The Pool shall determine the standard risk rate by considering the premium rates charged by other insurers offering health insurance coverage to individuals. The standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for the coverage. Pool rates shall be one hundred fifty percent (150%) to two hundred percent (200%) of rates established as applicable for individual standard rates and shall be adjusted annually, at the time of annual renewal.

(c) The Executive Director, with the approval of the Board and the Commissioner, may develop incentive programs with premium discounts. The Pool may provide for premium surcharges for covered individuals who are smokers. Premium surcharge rates shall be established by the Executive Director, in collaboration with the Board, subject to the approval of the Commissioner.

(d) Provider reimbursement rates under Pool coverage shall be limited to the rates allowed for providers under the Medicare Program for those services covered by Medicare. The Board shall establish reimbursement rates for services for which Medicare has not established an allowed rate. Providers rendering medical care to an insured shall accept payment of the amount established under this subsection, including any applicable deductible, coinsurance, or co-payment amounts, as payment in full for services rendered.

(e) The Pool shall submit all premium rates and premium rate schedules and amendments to the Commissioner for approval. The Pool shall not use any premium rates, premium rate schedules, or amendments to the rates and schedules unless the Commissioner has approved them. The Commissioner, in evaluating the premium rates and premium rate schedules, shall consider the factors provided in this section. The Pool shall provide all individuals enrolled in the Pool with at least 45 days' notice of any change in Pool premium rates or premium rate schedules.

(f) The Pool shall submit all policy forms, riders, endorsements, and applications for coverage to the Commissioner for approval. The Pool shall not use any policy forms, riders, endorsements, or applications for coverages unless the Commissioner has approved them. Except for any provisions that are specifically treated otherwise under this Part, the provisions of this Chapter that apply to benefit plans and policy forms of health insurers generally shall apply to the benefit plans offered and policy forms used by the Pool.

"**§ 58-50-195. Eligibility for Pool coverage.**

(a) Any individual who is and continues to be a resident of this State is eligible for Pool coverage if the individual provides evidence of any of the following:

(1) A notice of rejection or refusal to issue substantially similar health insurance coverage for health reasons by an insurer. A rejection or refusal by an insurer offering only stop-loss, excess loss, or reinsurance coverage with respect to the applicant is not sufficient evidence of eligibility.

(2) An offer to issue health insurance coverage only with a conditional rider that limits coverage for the individual's high-risk medical condition.

(3) A refusal by an insurer to issue health insurance coverage except at a rate exceeding the Pool rate.

(4) A diagnosis of the individual with one of the medical or health conditions listed by the Board in accordance with this section. An individual diagnosed with one or more of these conditions is eligible for Pool coverage without applying for other health insurance coverage.

(5) Qualification as a federally defined eligible individual, whether or not currently covered by an insurer under that qualification.

(6) An individual who is legally domiciled in this State and is eligible for the credit for health insurance costs under the Trade Adjustment Assistance Reform Act of 2002, section 35 of the Internal Revenue Code of 1986. Each dependent of an individual who is eligible for Pool coverage under this subdivision shall also be eligible for Pool coverage.

(7) The individual has current individual health insurance coverage at a rate exceeding the Pool rate.

(b) The Board, upon recommendation of the Executive Director, shall adopt a list of medical or health conditions for which a person shall be eligible for Pool coverage under subdivision (a)(4) of this section. The Board may amend the list as the Board considers appropriate.

(c) An individual is not eligible for coverage under the Pool if:

(1) The individual has or obtains medical care benefits substantially similar to or more comprehensive than the benefit plan offered by the Pool, or would be eligible to have coverage if the person elected to obtain it, except that:

a. An individual may maintain other coverage for the period of time the individual is satisfying any preexisting condition waiting period under a Pool policy; and

b. An individual may maintain Pool coverage for the period of time the individual is satisfying a preexisting condition waiting period under another health insurance policy intended to replace the Pool policy.

(2) The individual is determined to be eligible for enrollment in the State Medical Assistance Plan or in Medicare, unless the Pool offers Medicare supplemental insurance coverage.

(3) The individual has previously terminated Pool coverage unless 12 months have lapsed since the termination, except that this subdivision shall not apply with respect to an applicant who is a federally defined eligible individual or to an applicant eligible for or receiving benefits under the Trade Adjustment Assistance Program.

(4) The individual is an inmate or resident of a public institution, except that this subdivision shall not apply with respect to an applicant who is a federally defined eligible individual.

(5) The individual's premiums are paid for or reimbursed under any government-sponsored program or by any government agency or

health care provider, except as an otherwise qualifying full-time employee, or dependent thereof, of a government agency or health care provider. This subdivision shall not apply for individuals receiving benefits under the Trade Adjustment Assistance Program or to individuals receiving premium subsidies made available by the State based on individual income levels.

(6) The individual has in effect on the date Pool coverage takes effect health insurance coverage from an insurer or insurance arrangement.

(d) Coverage under the Pool shall cease:

(1) On the date an individual is no longer a resident of this State.

(2) On the date an individual requests coverage to end.

(3) Upon the death of the covered individual.

(4) On the date State law requires cancellation of the Pool policy.

(5) At the option of the Pool, 30 days after the Pool makes any inquiry concerning the individual's eligibility or residence to which the individual does not reply.

(6) Because the individual has failed to make the payments required under this Part.

(e) Except as provided in subsection (d) of this section, an individual who ceases to meet the eligibility requirements of this section may be terminated at the end of the Pool policy period for which the necessary premiums have been paid.

"**§ 58-50-200. Unfair referral to Pool.**

It is an unfair trade practice under Article 63 of this Chapter and under Chapter 75 of the General Statutes for an employer, an insurer, an insurance producer, as defined in G.S. 58-33-10(7), or a third-party administrator to refer an individual employee to the Pool or arrange for an individual employee to apply to the Pool for the purpose of separating that employee from a group medical care benefit plan provided in connection with the employee's employment. This section shall not prohibit an insurer or insurance producer from informing an individual of other coverage options, including coverage provided by the Pool.

"**§ 58-50-205. Minimum Pool benefits.**

(a) The Pool shall offer at least two types of benefit plans for individuals eligible under G.S. 58-50-195, including preferred provider organizations with different levels of deductibles and cost-sharing, and at least one choice of a health savings account. The covered services and benefit levels may vary between the types of benefit plans, but at least two types of benefit plans must, at a minimum, cover the benefits and services outlined in the National Association of Insurance Commissioners' (NAIC) Model Health Pool for Uninsurable Individuals Act and be consistent with comprehensive coverage generally available to persons who are eligible for individual health insurance other than Medicare. All benefit plans offered by the Pool shall include disease or case management services.

(b) The Board, upon the recommendation of the Executive Director, shall adopt rules regarding the lifetime limits and per individual combined coinsurance and deductibles for the health insurance products offered by the Pool. The initial rules shall include not less than one million dollars ($1,000,000) lifetime limit and a combined annual limit of up to five thousand dollars ($5,000) per individual on coinsurance and deductibles. The Board, upon recommendation of the Executive Director, shall adopt rules adjusting these limitations at least once every five years to reflect changes in the medical component of the Consumer Price Index. When adopting or adjusting lifetime

limits the Board may establish categories of diseases that may be more seriously impacted by the lifetime limits than other diseases covered under the Pool.

"**§ 58-50-210. Preexisting conditions.**

(a) Except as otherwise provided by law, Pool coverage shall exclude charges or expenses incurred during the first 12 months following the effective date of coverage as to any condition for which medical advice, care, or treatment was recommended or received as to such conditions during the 12-month period immediately preceding the effective date of coverage, except that no preexisting condition exclusion shall be applied to a federally defined eligible individual.

(b) Subject to subsection (a) of this section, the preexisting condition exclusions shall be waived to the extent that similar exclusions, if any, have been satisfied under any prior health insurance coverage that was involuntarily terminated, provided that:

(1) Application for Pool coverage is made not later than 63 days following the involuntary termination, and in such case coverage in the Pool shall be effective from the date on which the prior coverage was terminated; and

(2) The applicant is not eligible for continuation or conversion rights that would provide coverage substantially similar to Pool coverage.

"**§ 58-50-215. Nonduplication of benefits.**

(a) The Pool shall be payor of last resort of benefits whenever any other benefit or source of third-party payment is available. Benefits otherwise payable under coverage shall be reduced by all amounts paid or payable through any other medical care benefits and by all hospital and medical expenses paid or payable under any workers' compensation coverage notwithstanding any provision of law to the contrary, automobile medical payment, or liability insurance, whether provided on the basis of fault or no-fault, and by any hospital or medical benefits paid or payable under or provided pursuant to any State or federal law or program.

(b) The Pool shall have a cause of action against an eligible person for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the Pool may be reduced or refused as a setoff against any amount recoverable under this subsection.

"**§ 58-50-220: Reserved for future codification purposes.**

"**§ 58-50-225. North Carolina Health Insurance Risk Pool Special Fund.**

(a) The North Carolina Health Insurance Risk Pool Special Fund is established as an interest-bearing, non-reverting account in the General Fund. The Special Fund consists of the following revenue:

(1) Premiums, fees, charges, rebates, refunds, and any other receipts occurring or arising in connection with the Pool.

(2) The revenue transferred to the Fund under G.S. 105-228.5B.

(3) Gifts, grants, and other appropriations.

(b) Disbursements from the Special Fund shall include the amounts required to pay the claims, benefits, and administrative costs as may be determined by the Executive Director and the Board. Disbursement from the Special Fund may be made by warrant drawn on the State Treasurer by the Executive Director, or the Executive Director and the Board may by contract authorize the Administrator to draw the warrant.

"**§ 58-50-230. Complaint procedures.**

An applicant or participant in coverage from the Pool is entitled to have complaints against the Pool reviewed by a grievance committee appointed by the Executive

Director. Members of the Board shall not serve on the grievance committee. The grievance process shall comply with G.S. 58-50-62. The grievance committee shall report to the Board after completion of the review of each complaint. The Executive Director shall retain all written complaints regarding the Pool at least until the third anniversary of the date the Pool received the complaint. Independent review of an appeal decision upholding a noncertification or a second-level grievance review decision upholding a noncertification shall be subject to review pursuant to Part 4 of this Article.

"**§ 58-50-235. Audit.**

An audit of the Pool shall be conducted annually under the oversight of the State Auditor. The cost of the audit shall be reimbursed to the State Auditor from the Special Fund.

"**§ 58-50-240. Taxation.**

The Pool established under this Part is exempt from any and all State taxes.

"**§ 58-50-245. Rules.**

The Board and the Commissioner may adopt rules pursuant to Chapter 150B of the General Statutes, including temporary rules, to implement this Part.

"**§ 58-50-250. Collective action.**

The establishment of rates, forms, or procedures and any other joint or collective action required by this Part may not be the basis of any legal action or criminal or civil liability or penalty against the Pool or any insurer.

"**§ 58-50-255. Pool financing; Board reporting.**

(a) The Board shall monitor methods of financing the Pool to ensure a stable funding source and allow for its continued operation. This monitoring shall include supplementary sources of funding, such as funds obtained from public and private not-for-profit foundations, or other appropriate and available State or non-State funds. The Board shall also review on a regular basis:

(1) The number of individuals in this State who are uninsured as of a date certain because of high-risk conditions.

(2) The number of uninsured individuals who would qualify for coverage under the Pool based on G.S. 58-50-195 and its Plan of Operation.

(3) The cost of coverage under each of the health insurance plans developed by the Board, including administrative costs.

(4) The status of a request by the State to the Centers for Medicare and Medicaid Services for approval of the North Carolina Health Insurance Risk Pool to be considered an acceptable "alternative mechanism" under the federal Health Insurance Portability and Accountability Act in accordance with 45 C.F.R. § 148.128(e).

(5) Methods for providing a premium subsidy on a sliding scale basis for individuals with incomes up to three hundred percent (300%) of the federal poverty guidelines.

(b) The Board shall report its findings and recommendations to the General Assembly on March 1, 2008, and annually thereafter.

"**§§ 58-50-260 through 265: Reserved for future codification purposes.**"

SECTION 1.2. On or before January 1, 2008, the Executive Director shall notify the Centers for Medicare and Medicaid Services that the State has established the North Carolina Health Insurance Risk Pool and shall request that the North Carolina Health Insurance Risk Pool be approved as an acceptable "alternative mechanism" under the federal Health Insurance Portability and Accountability Act in accordance

with 45 C.F.R. § 148.128(e). The Executive Director shall notify the Commissioner when the Centers for Medicare and Medicaid Services approve the request.

SECTION 1.3. The Executive Director shall study methods for encouraging healthy behaviors among the Pool's insureds and report the Executive Director's findings to the Board and to the General Assembly not later than one year after initial implementation of the Pool.

SECTION 1.4. Notwithstanding G.S. 58-50-210(a), individuals enrolling in the Pool within six months of the date that enrollment into the Pool first begins shall be subject to a six-month preexisting condition waiting period.

SECTION 1.5. G.S. 120-70.111(a) reads as rewritten:

"(a) The Joint Legislative Health Care Oversight Committee shall review, on a continuing basis, the provision of health care and health care coverage to the citizens of this State, in order to make ongoing recommendations to the General Assembly on ways to improve health care for North Carolinians. To this end, the Committee shall study the delivery, availability, and cost of health care in North Carolina. The Committee shall also review, on a continuing basis, the implementation of the State Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes. As part of its review, the Committee shall advise and consult with the Department of Health and Human Services as provided under G.S. 108A-70.21. The Committee shall review, on a continuing basis, the implementation of the North Carolina Health Insurance Risk Pool established under Part 6 of Article 50 of Chapter 58 of the General Statutes. As part of its review, the Committee shall advise and consult with the Executive Director of the North Carolina Health Insurance Risk Pool as provided under G.S. 58-50-180. The Committee may also study other matters related to health care and health care coverage in this State."

SECTION 2.1. In addition to the North Carolina Health Insurance Risk Pool Special Fund established under G.S. 58-50-225, as enacted in this act, there is established in the Department of Insurance two separate funds, as follows:

(1) The Start-Up Reserve – State Funds. State funds appropriated to this Fund shall be used to support reasonable expenses for personnel to carry out the Board's responsibilities under the Pool, including contracting a third-party administrator. Funds shall be allocated by the Commissioner of Insurance for the reasonable expenses of the Board in conducting its duties under this Article that are incurred on or before July 1, 2009. At the end of the fiscal year, any unspent and unencumbered State funds and any interest or investment income earned on these funds shall not revert to the General Fund but shall be transferred to the North Carolina Health Insurance Risk Pool Special Fund.

(2) The Start-Up Reserve – Federal Funds. Federal funds received in lump sum or as a draw-down grant for the purposes of this Article shall be deposited to this Reserve and shall be expended and accounted for in accordance with requirements of the federal grant.

SECTION 2.2. It is the intent of the General Assembly that in the event the State is not awarded the federal funds anticipated, the General Fund shall be held harmless.

SECTION 3. There is appropriated from the General Fund to the Start-Up Reserve – State Funds established under Section 2.1 of this act, the sum of two hundred fifty thousand dollars ($250,000) for the 2007-2008 fiscal year. These funds shall be

allocated for the purposes of and in accordance with Section 2.1 of this act. Unspent and unencumbered funds remaining on June 30, 2008, shall not revert to the General Fund but shall be used for the purposes described in Section 2.1 of this act.

SECTION 4.(a) Article 8B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ **105-228.5B. Proceeds credited to High Risk Pool.**

Within 75 days after the end of each fiscal year, the State Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk Pool Special Fund established in G.S. 58-50-225 an amount equal to the growth in net revenue from the tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this tax is the difference between the amount of revenue collected during the preceding fiscal year on premiums taxed under that subdivision less $475,545,413, which is the amount of revenue collected during fiscal year 2006-2007 on premiums taxed under that subdivision. The Treasurer must draw the amount required under this section from revenue collected on premiums taxed under that subdivision."

SECTION 4.(b) G.S. 105-228.5B, as enacted by subsection (a) of this section, reads as rewritten:

"§ **105-228.5B. Distribution of part of tax proceeds.**

Within 75 days after the end of each fiscal year, the State Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk Pool Special Fund established in G.S. 58-50-225 an amount equal to thirty percent (30%) of the growth in revenue from the tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this tax is the difference between the amount of revenue collected during the preceding fiscal year on premiums taxed under that subdivision less $475,545,413, which is the amount of revenue collected during fiscal year 2006-2007 on premiums taxed under that subdivision. The Treasurer must draw the amount required under this section from revenue collected on premiums taxed under that subdivision."

SECTION 4.(c) Subsection (b) of this section becomes effective June 30, 2010, and applies to the transfer at the end of fiscal year 2009-2010. The remainder of this section is effective when it becomes law and applies to transfers for fiscal years ending on or after June 30, 2008.

SECTION 5. Notwithstanding G.S. 143C-9-3(b) and G.S. 147-86.30, of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1992 during the 2008-2009 fiscal year, the sum of five million dollars ($5,000,000) for the 2008-2009 fiscal year shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State transfers) to support General Fund appropriations by the 2007 General Assembly, Regular Session 2008, for operations and claims of the North Carolina Health Insurance Risk Pool, as enacted by this act.

SECTION 6. For the purposes of providing the funds necessary to carry out the powers and duties of the Pool, effective July 1, 2008, the Teachers' and State Employees' Comprehensive Major Medical Plan and any successor Plan shall pay an annual surcharge to the North Carolina Health Insurance Risk Pool Special Fund in the amount of one dollar and fifty cents ($1.50) per member per year based on enrollment of active employee Plan members and their dependents covered under the Plan.

SECTION 7. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 8. Sections 2.1, 2.2, and 3 of this act become effective July 1, 2007, and expire July 1, 2009. The remainder of this act is effective when it becomes law. Enrollment in the Pool shall commence no later than January 1, 2009.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 9:13 p.m. on the 31st day of August, 2007.

Session Law 2007-533 **House Bill 433**

AN ACT TO ADOPT THE LEXINGTON BARBECUE FESTIVAL AS THE OFFICIAL FOOD FESTIVAL OF THE NORTH CAROLINA PIEDMONT TRIAD.

Whereas, the first barbecue restaurant opened in the Town of Lexington in 1919; and

Whereas, Lexington has become well known for its barbecue and has been referred to as the Barbecue Capital of the World; and

Whereas, since 1984, Lexington has held an annual Barbecue Festival; and

Whereas, the Lexington Barbecue Festival has become one of the most popular food festivals in the country; and

Whereas, at the Lexington Barbecue Festival more than 150,000 visitors enjoy delicious food as well as a number of rides, games, and regional music; and

Whereas, during the Lexington Barbecue Festival, civic and nonprofit organizations sponsor events and sell goods to raise funds and present educational information to the public, and a number of local artists showcase and sell their crafts; and

Whereas, the Lexington Barbecue Festival was named "One of the Top Ten Food Festivals in the Country" by Travel and Leisure Magazine and a "Top 20 Event for the Month of October 2002" by the Southeast Tourism Society; and

Whereas, the Piedmont Triad Region of the State of North Carolina does not have an official food festival; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-27. State food festival.**

The Lexington Barbecue Festival is adopted as the official food festival of the Piedmont Triad Region of the State of North Carolina."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 9:25 p.m. on the 31st day of August, 2007.

Session Law 2007-534 **House Bill 454**

AN ACT TO PROTECT THE IDENTITY OF INDIVIDUALS BY AUTHORIZING THE TAKING OF A PHOTOGRAPH OF A PERSON WHO IS CITED FOR A MOTOR VEHICLE MOVING VIOLATION, WHO DOES NOT PRODUCE A VALID DRIVERS LICENSE UPON THE REQUEST OF A LAW ENFORCEMENT OFFICER, AND WHERE THE LAW ENFORCEMENT OFFICER HAS A REASONABLE SUSPICION REGARDING THE TRUE IDENTITY OF THE PERSON, AND TO PROVIDE A CAUSE OF ACTION FOR A PERSON WHOSE IDENTIFYING INFORMATION IS PUBLISHED OVER OBJECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-502 reads as rewritten:

"…

(b) This section does not authorize the taking of photographs or fingerprints when the offense charged is a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes, "Motor Vehicles." Notwithstanding the prohibition in this subsection, a photograph may be taken of a person who operates a motor vehicle on a street or highway if:

(1) The person is cited by a law enforcement officer for a motor vehicle moving violation, and

(2) The person does not produce a valid drivers license upon the request of a law enforcement officer, and

(3) The law enforcement officer has a reasonable suspicion concerning the true identity of the person.

As used in this subsection, the phrase "motor vehicle moving violation" does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of Chapter 20 of the General Statutes.

(b1) Any photograph authorized by subsection (b) of this section and taken by a law enforcement officer or agency:

(1) Shall only be taken of the operator of the motor vehicle, and only from the neck up.

(2) Shall be taken at either the location where the citation is issued, or at the jail if an arrest is made.

(3) Shall be retained by the law enforcement officer or agency until the final disposition of the case.

(4) Shall not be used for any purpose other than to confirm the identity of the alleged offender.

(5) Shall be destroyed by the law enforcement officer or agency upon a final disposition of the charge.

…."

SECTION 2. Article 2A of Chapter 75 of the General Statutes is amended by adding a new section to read:

"**§ 75-66. Publication of personal information.**

(a) It shall be a violation of this section for any person to knowingly broadcast or publish to the public on radio, television, cable television, in a writing of any kind, or on

the Internet, the personal information of another with actual knowledge that the person whose personal information is disclosed has previously objected to any such disclosure.

(b) As used in this section, "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity, but does not include any:

(1) Government, government subdivision or agency.

(2) Entity subject to federal requirements pursuant to the Health Insurance Portability and Accountability Act (HIPAA).

(c) As used in this section, the phrase "personal information" includes a person's first name or first initial and last name in combination with any of the following information:

(1) Social security or employer taxpayer identification numbers.

(2) Drivers license, State identification card, or passport numbers.

(3) Checking account numbers.

(4) Savings account numbers.

(5) Credit card numbers.

(6) Debit card numbers.

(7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).

(8) Digital signatures.

(9) Any other numbers or information that can be used to access a person's financial resources.

(10) Biometric data.

(11) Fingerprints.

(12) Passwords.

(d) Nothing in this section shall:

(1) Limit the requirements or obligations under any other section of this Article, including, but not limited to, G.S. 75-62 and G.S. 75-65.

(2) Apply to the collection, use, or release of personal information for a purpose permitted, authorized, or required by any federal, state, or local law, regulation, or ordinance.

(e) Any person whose property or person is injured by reason of a violation of this section may sue for civil damages pursuant to the provisions of G.S. 1-539.2C."

SECTION 3. G.S. 1-539.2C reads as rewritten:

"§ **1-539.2C. Damages for identity theft.**

(a) Any person whose property or person is injured by reason of an act made unlawful by Article 19C of Chapter 14 of the General ~~Statutes~~ Statutes, or a violation of G.S. 75-66, may sue for civil damages. For each unlawful act, or each violation of G.S. 75-66, ~~Damages~~ damages may be

(1) ~~in~~ In an amount of up to five thousand dollars ($5,000), but no less than five hundred dollars ~~($500.00)~~ ($500.00), ~~for each incident,~~ or

(2) ~~three~~ Three times the amount of actual damages,

whichever amount is greater. A person seeking damages as set forth in this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of this section. The court, in an action brought under this section, may award reasonable attorneys' fees to the prevailing party.

(b) If the identifying information of a deceased person is used in a manner made unlawful by Article 19C of Chapter 14 of the General Statutes, or by a violation of G.S. 75-66, the deceased person's estate shall have the right to recover damages pursuant to subsection (a) of this section.

(c) The venue for any civil action brought under this section shall be the county in which the plaintiff resides or any county in which any part of the alleged violation of G.S. 75-66, G.S. 14-113.20 or G.S. 14-113.20A took place, regardless of whether the defendant was ever actually present in that county. Civil actions under this section must be brought within three years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered.

(d) Civil action under this section does not depend on whether or not a criminal prosecution has been or will be instituted under Article 19C of Chapter 14 of the General Statutes for the acts which are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law."

SECTION 4. This act becomes effective December 1, 2007, and applies to offenses and violations committed on or after that date.

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law upon approval of the Governor at 9:26 p.m. on the 31st day of August, 2007.

Session Law 2007-535 **House Bill 773**

AN ACT TO PROTECT MEMBERS OF THE UNITED STATES ARMED FORCES FROM DISHONEST AND PREDATORY LIFE INSURANCE AND ANNUITY SALES PRACTICES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 58 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 6. Dishonest and Predatory Sales to Military Personnel.

"**§ 58-58-320. Purpose.**

(a) The purpose of this Part is to set forth standards to protect service members of the Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive, or unfair.

(b) Nothing in this Part shall be construed to create or imply a private cause of action for a violation of this Part.

"**§ 58-58-325. Scope.**

This Part applies only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States armed forces.

"**§ 58-58-330. Exemptions.**

(a) This Part does not apply to solicitations or sales involving:

(1) Credit insurance.

(2) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund.

(3) An application to the existing insurer that issued the existing policy or contract when (i) a contractual change or a conversion privilege is being exercised, (ii) the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the

Commissioner, or (iii) a term conversion privilege is exercised among corporate affiliates.

(4) Contracts offered by Servicemembers' Group Life Insurance or Veterans' Group Life Insurance, as authorized by 38 U.S.C. § 1965, et seq.

(5) Individual stand-alone health policies, including disability income policies.

(6) Life insurance contracts offered through or by a nonprofit military association, qualifying under section 501(c)(23) of the Internal Revenue Code (IRC), and that are not underwritten by an insurer.

(7) Contracts used to fund:

a. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA).

b. A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, if established or maintained by an employer.

c. A government or church plan defined in section 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the Internal Revenue Code.

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

f. Prearranged funeral contracts.

(b) Nothing in this Part shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States armed forces in accordance with Department of Defense DoD Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS or successor directive.

(c) For purposes of this Part, general advertisements, direct mail, and Internet marketing do not constitute "solicitation." Telephone marketing does not constitute "solicitation," provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided, however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this Part in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

"**§ 58-58-335. Definitions.**

As used in this Part:

(1) "Active duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. "Active duty" does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

(2) "Department of Defense personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

(3) "Door to door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

(4) "General advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance or the promotion of the insurer or the insurance producer.

(5) "Insurance producer" means a person required to be licensed under Article 33 of this Chapter to sell, solicit, or negotiate life insurance, including annuities.

(6) "Insurer" means an insurance company required to be licensed under this Chapter to provide life insurance products, including annuities.

(7) "Known" or "knowingly" means, depending on its use in this Part, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited is or was:

a. A service member; or

b. A service member with a pay grade of E-4 or below.

(8) "Life insurance" means insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income; and unless otherwise specifically excluded, includes individually issued annuities.

(9) "Military installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

(10) "MyPay" means the Defense Finance and Accounting Service (DFAS) Web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(11) "Service member" means any active duty commissioned officer, any active duty warrant officer, or any active duty enlisted member of the armed forces.

(12) "SGLI" means Servicemembers' Group Life Insurance, as authorized by 38 U.S.C. § 1965, et seq.

(13) "Side fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement, or other mechanism that accumulates premium or deposits with interest or by other means. "Side fund" does not include:

a. Accumulated value or cash value or secondary guarantees provided by a universal life policy;

b. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

c. A premium deposit fund that:

1. Contains only premiums paid in advance that accumulate at interest.
2. Imposes no penalty for withdrawal.
3. Does not permit funding beyond future required premiums.
4. Is not marketed or intended as an investment.
5. Does not carry a commission, either paid or calculated.

(14) "Specific appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

(15) "United States armed forces" or "armed forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(16) "VGLI" means Veterans' Group Life Insurance, as authorized by 38 U.S.C. § 1965, et seq.

"**§ 58-58-340. Practices declared false, misleading, deceptive, or unfair on a military installation.**

(a) The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive, or unfair:

(1) Knowingly soliciting the purchase of any life insurance product "door to door" or without first establishing a specific appointment for each meeting with the prospective purchaser.

(2) Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.

(3) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

(4) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

(5) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

(6) Posting unauthorized bulletins, notices, or advertisements.

(7) Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.

(8) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the armed forces without first obtaining for the insurer's files a completed copy of any required form that confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the Department of Defense or any branch of the armed forces.

(b) The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive, or unfair:

(1) Using Department of Defense personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

(2) Using an insurance producer to participate in any armed forces sponsored education or orientation program.

"**§ 58-58-345. Practices declared false, misleading, deceptive, or unfair regardless of location.**

(a) The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive, or unfair:

(1) Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the United States armed forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's MyPay account or other similar Internet or electronic medium for such purposes. This subdivision does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(2) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

a. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301, et seq. and the regulations promulgated thereunder; and

b. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(3) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subdivision (a)(2) of this section.

(4) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(5) Using Department of Defense personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade or to the family members of such personnel.

(6) Offering or giving anything of value, directly or indirectly, to Department of Defense personnel to procure their assistance in encouraging, assisting. or facilitating the solicitation or sale of life insurance to another service member.

(7) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.

(8) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(b) The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval, or affiliation and are declared to be false, misleading, deceptive, or unfair:

(1) Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government, the United States armed forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant," or "Veteran's Benefits Counselor." Nothing in this subdivision prohibits a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Those designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant, (ChFC), Certified Financial Planner (CFP), Master of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(2) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States armed forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government or the United States armed forces.

(c) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs, or investment returns and are declared to be false, misleading, deceptive, or unfair:

(1) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(2) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

(d) The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive, or unfair:

(1) Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to a service member or dependents by SGLI or VGLI that is false, misleading, or deceptive.

(2) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers that is false, misleading, or deceptive.

(3) Suggesting, recommending, or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy that replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the armed forces.

(e) The following acts or practices by an insurer and/or insurance producer regarding disclosure are declared to be false, misleading, deceptive, or unfair:

(1) Deploying, using, or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(2) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(3) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

(4) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by section 10 of the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290, p.16.

(5) Excluding individually issued annuities, when the sale is conducted in-person, face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

a. An explanation of any free look period with instructions on how to cancel if a policy is issued; and

b. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for, and its expected first year cost. A basic illustration that meets the requirements of rules adopted by the Commissioner concerning life insurance illustrations are sufficient to meet this requirement for a written disclosure.

(f) The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive, or unfair:

(1) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(2) Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is

currently enrolled in SGLI is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance. As used in this subdivision, "insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents; and "other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare Benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(3) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

a. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

b. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one to 10 and for every fifth policy year thereafter ending at age 100, policy maturity, or final expiration; and

c. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce, or offset any premiums due.

(4) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including, but not limited to, endowment, return of premium, or persistency, does not comply with standard nonforfeiture law for life insurance.

(5) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

"§ **58-58-350. Procedures and sanctions.**

(a) The provisions of G.S. 58-63-20, 58-63-25, 58-63-32, 58-63-35, 58-63-50, and 58-63-60 apply to this Part and are incorporated into this Part by reference.

(b) A violation of this Part is a ground for license suspension, probation, revocation, nonrenewal, or denial under G.S. 58-33-46 and subjects the violator to G.S. 58-2-70."

SECTION 2. This act becomes effective January 1, 2008, and applies to acts or offenses committed on or after that date.

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law upon approval of the Governor at 9:30 p.m. on the 31st day of August, 2007.

Session Law 2007-536 **House Bill 810**

AN ACT TO: (1) CLARIFY THE TRAINING AND QUALIFICATION REQUIREMENTS APPLICABLE TO ANIMAL WASTE MANAGEMENT TECHNICAL SPECIALISTS IN THE PROVISION OF SERVICES RELATED TO THE DEVELOPMENT, IMPLEMENTATION, OR OPERATION OF AN ANIMAL WASTE MANAGEMENT PLAN OR ANIMAL WASTE MANAGEMENT SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION; (2) EXTEND THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE MANAGEMENT SYSTEMS; AND (3) CLARIFY THE APPLICABILITY OF THE WATER QUALITY ENFORCEMENT PROVISIONS IN ARTICLE 21 OF CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 89C-25 reads as rewritten:

"§ **89C-25. Limitations on application of Chapter.**

This Chapter shall not be construed to prevent or affect:

...

(6) Practice by members of the armed ~~forces or~~ forces; employees of the government of the United States while engaged in the practice of engineering or land surveying solely for the government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation ~~Service having~~ Service, county employees, or employees of the Soil and Water Conservation Districts who have federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.

..."

SECTION 2. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176, Section 6.1 of S.L. 2003-340, and Section 12.7(a) of S.L. 2005-276 reads as rewritten:

"(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate 1 September ~~2007,~~ 2009, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. In addition, Brunswick County and Pender County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these four counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the

system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these four counties shall be located in an office in the county in which that person will be conducting inspections. As part of this pilot program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the four counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources."

SECTION 3. G.S. 143-215.6A is amended by adding a new subsection to read:

"(a1) For purposes of this section, the term 'Part' includes Part 1A of this Article."

SECTION 4. G.S. 143-215.6B is amended by adding a new subsection to read:

"(a1) For purposes of this section, the term 'Part' includes Part 1A of this Article."

SECTION 5. G.S. 143-215.6C reads as rewritten:

"§ **143-215.6C. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Part, any of the terms of any permit issued pursuant to this Part, or a rule implementing this Part, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation of the provisions of this Part or the regulations of the Commission has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this Part. For purposes of this section references to "this Part" include Part 1A of this Article and G.S. 143-355(k) relating to water use information."

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

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law upon approval of the Governor at 9:31 p.m. on the 31st day of August, 2007.

Session Law 2007-537 **House Bill 1277**

AN ACT TO PROVIDE FOR THE REVOCATION OF THE DRIVERS LICENSE OF ANY PERSON CONVICTED OF GIVING ALCOHOLIC BEVERAGES TO, OR AIDING AND ABETTING THE PURCHASE OR POSSESSION OF ALCOHOLIC BEVERAGES BY, AN UNDERAGE PERSON AND TO ALLOW FOR A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-302 reads as rewritten:

"§ **18B-302. Sale to or purchase by underage persons.**

(a) Sale. – It shall be unlawful for any person to:

(1) Sell ~~or give~~ malt beverages or unfortified wine to anyone less than 21 years old; or

(2) Sell ~~or give~~ fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(a1) Give. – It shall be unlawful for any person to:

(1) Give malt beverages or unfortified wine to anyone less than 21 years old; or

(2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(b) Purchase, Possession, or Consumption. – It shall be unlawful for:

(1) A person less than 21 years old to purchase, to attempt to purchase, or to possess malt beverages or unfortified wine; or

(2) A person less than 21 years old to purchase, to attempt to purchase, or to possess fortified wine, spirituous liquor, or mixed beverages; or

(3) A person less than 21 years old to consume any alcoholic beverage.

(c) Aider and Abettor.

(1) By Underage Person. – Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection ~~(a)~~(a), (a1), or (b) of this section shall be guilty of a Class 2 misdemeanor.

(2) By Person over Lawful Age. – Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection ~~(a)~~(a), (a1), or (b) of this section shall be guilty of a Class 1 misdemeanor.

(d) Defense. – It shall be a defense to a violation of subsection (a) of this section if the seller:

(1) Shows that the purchaser produced a driver's license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing his age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser; or

(2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

(3) Shows that at the time of purchase, the purchaser utilized a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-377.7, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the document.

(e) Fraudulent Use of Identification. – It shall be unlawful for any person to enter or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to

purchase alcoholic beverages, in violation of subsection (b) of this section, by using or attempting to use any of the following:

(1) A fraudulent or altered drivers license.

(2) A fraudulent or altered identification document other than a drivers license.

(3) A drivers license issued to another person.

(4) An identification document other than a drivers license issued to another person.

(5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing alcoholic beverages under this section.

(f) Allowing Use of Identification. – It shall be unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.

(g) Conviction Report Sent to Division of Motor Vehicles. – The court shall file a conviction report with the Division of Motor Vehicles indicating the name of the person convicted and any other information requested by the Division if the person is convicted ~~of:~~ of any of the following:

(1) A violation of subsection (e) or (f) of this ~~section; or~~ section.

(2) A violation of ~~subdivision (c)(1)~~ subsection (c) of this ~~section; or~~ section.

(3) A violation of subsection (b) of this section, if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.

(4) A violation of subsection (a1) of this section.

Upon receipt of a conviction report, the Division shall revoke the person's license as required by G.S. 20-17.3.

(h) Handling in Course of Employment. – Nothing in this section shall be construed to prohibit an underage person from selling, transporting, possessing or dispensing alcoholic beverages in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes and Commission rules.

(i) Purchase, Possession, or Consumption by 19 or 20-Year Old. – A violation of subdivision (b)(1) or (b)(3) of this section by a person who is 19 or 20 years old is a Class 3 misdemeanor.

(j) Notwithstanding any other provisions of law, a law enforcement officer may require any person the officer has probable cause to believe is under age 21 and has consumed alcohol to submit to an alcohol screening test using a device approved by the Department of Health and Human Services. The results of any screening device administered in accordance with the rules of the Department of Health and Human Services shall be admissible in any court or administrative proceeding. A refusal to submit to an alcohol screening test shall be admissible in any court or administrative proceeding.

(k) Notwithstanding the provisions in this section, it shall not be unlawful for a person less than 21 years old to consume unfortified wine or fortified wine during participation in an exempted activity under G.S. 18B-103(4), (8), or (11)."

SECTION 2. G.S. 18B-302.1(a) reads as rewritten:

"(a) A violation of ~~G.S. 18B-302(a)~~G.S. 18B-302(a) or (a1) is a Class 1 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least two hundred fifty dollars ($250.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 25 hours of community service, as authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this offense in the four years immediately preceding the date of the current offense, and the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least five hundred dollars ($500.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 150 hours of community service, as authorized by G.S. 15A-1343(b1)(6)."

SECTION 3. G.S. 20-17.3 reads as rewritten:

"§ **20-17.3. Revocation for underage purchasers of alcohol.**

The Division shall revoke for one year the driver's license of any person who has been convicted of violating any of the following:

(1) ~~G.S. 18B-302(c)(1),~~G.S. 18B-302(c), (e), or ~~(f); or~~ (f).

(2) G.S. 18B–302(b), if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.

(3) G.S. 18B-302(a1).

If the person's license is currently suspended or revoked, then the revocation under this section shall begin at the termination of that revocation. A person whose license is revoked under this section for a violation of G.S. 18B-302(a1) or G.S. 18B-302(c) shall be eligible for a limited driving privilege under G.S. 20-179.3."

SECTION 4. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 9:32 p.m. on the 31st day of August, 2007.

Session Law 2007-538 **House Bill 1372**

AN ACT TO ENACT THE REVISED UNIFORM ANATOMICAL GIFT ACT; TO PROVIDE THAT THE DECISION TO HAVE THE HEART SYMBOL ON ONE'S DRIVERS LICENSE IS LEGALLY SUFFICIENT CONSENT TO ORGAN DONATION UNLESS REVOKED BY THE DONOR; TO IMPROVE DONOR OR PROSPECTIVE DONOR ONLINE ACCESS TO INDICATE OR REVOKE ORGAN AND TISSUE DONATION; AND TO MAKE CONFORMING CHANGES TO OTHER AFFECTED GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 130A of the General Statutes is amended by adding the following new Part to read:

"Part 3A. Revised Uniform Anatomical Gift Act.

"**§ 130A-412.3. Short title.**

This Part may be cited as the Revised Uniform Anatomical Gift Act.

"**§ 130A-412.4. Definitions.**

The following definitions apply in this Part:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

a. Authorized to make an anatomical gift on the principal's behalf under a power of attorney for health care; or

b. Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Body part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(5) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this Article, a fetus.

(6) "Disinterested witness" means any individual except for the following:

a. The donor's: spouse, child, parent, sibling, grandchild, grandparent, or guardian.

b. An adult who exhibited special care and concern for the donor.

c. A person to whom an anatomical gift could pass under G.S. 130A-412.13.

(7) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a drivers license, identification card, or donor registry.

(8) "Donor" means an individual whose body or body part is the subject of an anatomical gift.

(9) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(10) "Drivers license" means a license or permit issued by the North Carolina Department of Transportation, Division of Motor Vehicles, to operate a vehicle, whether or not conditions are attached to the license or permit.

(11) "Eye bank" means an entity that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(12) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12a) "Health care decision" means any decision made regarding the health care of the prospective donor.

(13) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(14) "Identification card" means an identification card issued by the North Carolina Department of Transportation, Division of Motor Vehicles.

(15) "Know" means to have actual knowledge.

(16) "Minor" means an individual who is under 18 years of age.

(17) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(18) "Parent" means a parent whose parental rights have not been terminated.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's body part has been or is intended to be transplanted.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Refusal" means a record created under G.S. 130A-412.9 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or body part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

a. To execute or adopt a tangible symbol; or

b. To attach to or logically associate with the record an electronic symbol, sound, or process.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) "Technician" means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

"**§ 130A-412.5. Applicability.**

This act applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

"**§ 130A-412.6. Who may make an anatomical gift before donor's death.**

Subject to G.S. 130A-412.10, an anatomical gift of a donor's body or body part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in G.S. 130A-412.7 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:
  a. Emancipated; or
  b. Authorized under State law to apply for a drivers license because the donor is at least 16 years of age;
(2) An agent of the donor to the extent authorized under a power of attorney for health care or other record;
(3) A parent of the donor, if the donor is an unemancipated minor; or
(4) The donor's guardian.

"**§ 130A-412.7. Manner of making anatomical gift before donor's death.**

(a) A donor may make an anatomical gift by any of the following methods:
(1) By authorizing that a statement or symbol be imprinted on the donor's drivers license or identification card indicating that the donor has made an anatomical gift. Anatomical gifts made by this method shall not include a donation of tissue or the donor's body.
(2) In a will.
(3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness.
(4) As provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under G.S. 130A-412.6 may make a gift by a signed donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:
(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
(2) State that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) Revocation, suspension, expiration, or cancellation of a drivers license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

"**§ 130A-412.8. Amending or revoking anatomical gift before donor's death.**

(a) Subject to G.S. 130A-412.10, a donor or other person authorized to make an anatomical gift under G.S. 130A-412.6 may amend or revoke an anatomical gift by:

(1) A record signed by:

a. The donor;

b. The other person; or

c. Subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to sub-subdivision c. of subdivision (1) of subsection (a) of this section must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) Subject to G.S. 130A-412.10, a donor or other person authorized to make an anatomical gift under G.S. 130A-412.6 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

"**§ 130A-412.9. Refusal to make anatomical gift; effect of refusal.**

(a) An individual may refuse to make an anatomical gift of the individual's body or body part by:

(1) A record signed by:

a. The individual; or

b. Subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to sub-subdivision b. of subdivision (1) of subsection (a) of this section must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) State that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) In the manner provided in subsection (a) of this section for making a refusal;

(2) By subsequently making an anatomical gift pursuant to G.S. 130A-412.7 that is inconsistent with the refusal; or

(3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in G.S. 130A-412.10(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or body part bars all other persons from making an anatomical gift of the individual's body or body part.

"**§ 130A-412.10. Preclusive effect of an anatomical gift, amendment, or revocation.**

(a) Except as otherwise provided in subsection (g) of this section and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or body part if either of the following apply:

(1) The donor made an anatomical gift of the donor's body or body part under G.S. 130A-412.7.

(2) The donor made an amendment to an anatomical gift of the donor's body or body part under G.S. 130A-412.8.

(b) A donor's revocation of an anatomical gift of the donor's body or body part under G.S. 130A-412.8 is not a refusal and does not bar another person specified in G.S. 130A-412.6 or G.S. 130A-412.11 from making an anatomical gift of the donor's body or body part under G.S. 130A-412.7 or G.S. 130A-412.12.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or body part under G.S. 130A-412.7 or an amendment to an anatomical gift of the donor's body or body part under G.S. 130A-412.8, another person may not make, amend, or revoke the gift of the donor's body or body part under G.S. 130A-412.12.

(d) A revocation of an anatomical gift of a donor's body or body part under G.S. 130A-412.8 by a person other than the donor does not bar another person from making an anatomical gift of the body or body part under G.S. 130A-412.7 or G.S. 130A-412.12.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under G.S. 130A-412.6, an anatomical gift of a body part is neither a refusal to give another body part nor a limitation on the making of an anatomical gift of another body part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under G.S. 130A-412.6, an anatomical gift of a body part for one or more of the purposes set forth in G.S. 130A-412.6 is not a limitation on the making of an anatomical gift of the body part for any of the other purposes by the donor or any other person under G.S. 130A-412.7 or G.S. 130A-412.12.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or body part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

"**§ 130A-412.11. Who may make an anatomical gift of decedent's body or body part.**

(a) Subject to subsections (b) and (c) of this section, and unless barred by G.S. 130A-412.9 or G.S. 130A-412.10, an anatomical gift of a decedent's body or body

part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under G.S. 130A-412.6(2) immediately before the decedent's death;
(2) The spouse of the decedent;
(3) Adult children of the decedent;
(4) Parents of the decedent;
(5) Adult siblings of the decedent;
(6) Adult grandchildren of the decedent;
(7) Grandparents of the decedent;
(8) An adult who exhibited special care and concern for the decedent;
(9) The persons who were acting as the guardians of the person of the decedent at the time of death; and
(10) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in subdivision (a)(1), (3), (4), (5), (6), (7), or (9) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under G.S. 130A-412.13 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

"**§ 130A-412.12. Manner of making, amending, or revoking anatomical gift of decedent's body or body part.**

(a) A person authorized to make an anatomical gift under G.S. 130A-412.11 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under G.S. 130A-412.11 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under G.S. 130A-412.11 may be:

(1) Amended only if a majority of the reasonably available members agrees to the amending of the gift; or
(2) Revoked only if a majority of the reasonably available members agrees to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a body part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

"**§ 130A-412.13. Persons that may receive anatomical gift; purpose of anatomical gift.**

(a) An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, including the Commission on Anatomy, for research or education;

(2) Subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the body part;

(3) An eye bank or tissue bank.

(b) If an anatomical gift to an individual under subdivision (a)(2) of this section cannot be transplanted into the individual, the body part passes in accordance with subsection (g) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific body parts or of all body parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the body part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the body part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the body part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the body part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one or more specific body parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(g) For purposes of subsections (b), (e), and (f) of this section, the following rules apply:

(1) If the body part is an eye, the gift passes to the appropriate eye bank.

(2) If the body part is tissue, the gift passes to the appropriate tissue bank.

(3) If the body part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subdivision (a)(2) of this section, passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this section or the decedent's body or body part is not used for transplantation, therapy, research, or education, then custody of the body or body part passes to the person under obligation to dispose of the body or body part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under G.S. 130A-412.7 or G.S. 130A-412.12 or if the person knows that the decedent made a refusal under G.S. 130A-412.9 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in subdivision (a)(2) of this section, nothing in this act affects the allocation of organs for transplantation or therapy.

"**§ 130A-412.14. Search and notification.**

(a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

(2) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subdivision (a)(1) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

"**§ 130A-412.15. Delivery of document of gift not required; right to examine.**

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under G.S. 130A-412.13.

"**§ 130A-412.16. Rights and duties of procurement organization and others.**

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the North Carolina Department of Transportation, Division of Motor Vehicles, and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the North Carolina Department of Transportation, Division of Motor Vehicles, to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a body part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the body part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this Part, at any time after a donor's death, the person to which a body part passes under G.S. 130A-412.13 may conduct any reasonable examination necessary to ensure the medical suitability of the body or body part for its intended purpose.

(e) Unless otherwise prohibited by law, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in G.S. 130A-412.11 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to G.S. 130A-412.13(i) and G.S. 130A-412.25, the rights of the person to which a body part passes under G.S. 130A-412.13 are superior to the rights of all others with respect to the body part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this Part, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a body part, the person to which the body part passes under G.S. 130A-412.13, upon the death of the donor and before embalming, burial, or cremation, shall cause the body part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated body part from the body of a donor that the physician or technician is qualified to remove.

"**§ 130A-412.17. Coordination of procurement and use.**

Each hospital in this State shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

"**§ 130A-412.18. Sale or purchase of body parts prohibited.**

(a) Except as otherwise provided in subsection (b) of this section, a person, that for valuable consideration, knowingly purchases or sells a body part for transplantation or therapy if removal of a body part from an individual is intended to occur after the individual's death commits a Class H felony and upon conviction may be fined up to fifty thousand dollars ($50,000) for each offense.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a body part.

"**§ 130A-412.19. Other prohibited acts.**

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a Class H felony and upon conviction may be fined up to fifty thousand dollars ($50,000) for each offense.

"**§ 130A-412.20. Immunity.**

(a) A person that acts with due care in accordance with this Part or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this Part, a person may rely upon representations of an individual listed in subdivisions (2) through (8) of G.S. 130A-412.11(a) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

"**§ 130A-412.21. Law governing validity; choice of law as to execution of document of gift; presumption of validity.**

(a) A document of gift is valid if executed in accordance with:

(1) This Part;

(2) The laws of the state or country where it was executed; or

(3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this State governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

"**§ 130A-412.22. Donor registry.**

The online Organ Donor Registry Internet site established pursuant to G.S. 20-43.2 shall be the State donor registry for anatomical gifts made pursuant to this Part. Requirements for maintenance and use of the State donor registry shall be as provided under G.S. 20-43.2.

"**§ 130A-412.23. Cooperation between a medical examiner and the procurement organization.**

(a) The medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(b) If a medical examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is going to be performed, unless the medical examiner denies recovery in accordance with G.S. 130A-412.24, the medical examiner or designee shall conduct a postmortem examination of the body or the body part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c) A body part may not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation, therapy, research, or education unless the body part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a medical examiner from performing the medicolegal investigation upon the body or body parts of a decedent under the jurisdiction of the medical examiner.

(d) As used in this section and G.S. 130A-412.24, "medical examiner" includes the Chief Medical Examiner, a county medical examiner, or a designee of either.

"**§ 130A-412.24. Facilitation of anatomical gift from decedent whose body is under the jurisdiction of a medical examiner.**

(a) Upon request of a procurement organization, a medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is or will come under the jurisdiction of the medical examiner. If the decedent's body or body part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the medical examiner only if relevant to transplantation or therapy.

(b) The medical examiner may conduct a medicolegal examination, including physical examination of a donor or prospective donor and review of all medical records, laboratory test results, X-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner or whose body would be under the medical examiner's jurisdiction upon death and that the medical examiner determines may be relevant to the investigation.

(c) A person that has any information requested by a medical examiner pursuant to subsection (b) of this section shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of body parts for the purpose of transplantation, therapy, research, or education.

(d) If an anatomical gift has been or might be made of a body part of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the body part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the body part from the decedent for the purpose of transplantation, therapy, research, or education.

(e) If an anatomical gift of a body part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner initially believes that the recovery of the body part could interfere with the postmortem investigation into the decedent's cause or manner of death, the collection of evidence, or the description, documentation, or interpretation of injuries on the body, the medical examiner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the medical examiner may deny or allow the recovery.

(f) If the medical examiner or designee allows recovery of a body part under subsection (d) or (e) of this section, the procurement organization shall provide the

medical examiner or designee with a record describing the condition of the body part signed by the physician or technician who removes the body part and any other information and observations that would assist in the postmortem examination."

"**§§ 130A-412.25 through 130A-412.29: Reserved for future codification purposes.**"

SECTION 2. G.S. 20-43.2 reads as rewritten:

"§ **20-43.2. Internet access to organ donation records by organ procurement organizations.**

(a) The Department of Transportation, Division of Motor Vehicles, shall establish and maintain a statewide, online Organ Donor Registry Internet ~~site.~~site (hereafter "Donor Registry"). The purpose of the ~~Organ Donor Internet site~~ Donor Registry is to enable federally designated organ procurement organizations and eye banks to have ~~timely access to~~access 24 hours per day, seven days per week to obtain relevant information on the Donor Registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift through a symbol on the donor's or prospective donor's drivers license, special identification card, or other manner. ~~the names of individuals who have stated to the Division the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card.~~ The data available on the ~~Organ Donor Internet site~~ Donor Registry shall be limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. The Division of Motor Vehicles shall ensure that only federally designated organ procurement organizations and eye banks operating in this State have access to the ~~Organ Donor Internet site~~Donor Registry in read-only format. The Division of Motor Vehicles shall enable federally designated organ procurement organizations and eye banks operating in this State to have online access in read-only format to the ~~Organ Donor Internet site~~Donor Registry through a unique identifier and password issued to the organ procurement organization or eye bank by the Division of Motor Vehicles. ~~The read-only information from the Organ Donor Internet site will be used for the sole purpose of seeking consent from the individual's next of kin for organ, tissue, or eye donation.~~Employees of the Division who provide access to or disclosure of information in good-faith compliance with this section are not liable in damages for access to or disclosure of the information.

(b) When accessing and using information obtained from the ~~Organ Donor Internet site,~~Donor Registry, federally designated organ procurement organizations and eye banks shall comply with the requirements of Part ~~3~~3A of Article 16 of Chapter 130A of the General Statutes.

(c) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(d) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the State. Any such registry must comply with subsections (b) and (c) of this section."

SECTION 3.(a) G.S. 130A-410, 130A-411, 130A-412.1, and 130A-412.2 are recodified under Part 3A of Article 16 of Chapter 130A of the General Statutes, as enacted in Section 1 of this act, as G.S. 130A-412.30, 130A-412.31, 130A-412.32, and 130A-412.33 respectively.

SECTION 3.(b) Except as provided in subsection (a) of this section, Part 3 of Article 16 of Chapter 130A of the General Statutes is repealed.

SECTION 4. G.S. 130A-412.1(e), as recodified as G.S. 130A-412.32(e) in Section 3(a) of this act, reads as rewritten:

"(e) Each hospital shall have a signed agreement with its federally designated organ procurement organization that addresses the requirements of this section and the requirements of ~~G.S. 130A-412.2.~~ G.S. 130A-412.33."

SECTION 5. G.S. 130A-412.2(c), as recodified as G.S. 130A-412.33(c) in Section 3 of this act, reads as rewritten:

"(c) The federally designated organ procurement organization or tissue bank shall, working collaboratively with the hospital, request consent for organ or tissue donation in the order of priority established under ~~G.S. 130A-404(b)~~ G.S. 130A-412.11 and shall have designated, trained staff available to perform the consent process 24 hours a day, 365 days a year."

SECTION 6. G.S. 130A-412.2(e), as recodified as G.S. 130A-412.33(e) in Section 3 of this act, reads as rewritten:

"(e) All hospital and patient information, interviews, reports, statements, memoranda, and other data obtained or created by a tissue bank or federally designated organ procurement organization from the medical records review described in ~~G.S. 130A-412.1~~ G.S. 130A-412.33 shall be privileged and confidential and may be used by the tissue bank or federally designated organ procurement organization only for the purposes set forth in ~~G.S. 130A-412.1~~ G.S. 130A-412.33 and shall not be subject to discovery or introduction as evidence in any civil action, suit, or proceeding. However, hospital and patient information, interviews, reports, statements, memoranda, and other data otherwise available are not immune from discovery or use in a civil action, suit, or proceeding merely because they were obtained or created by a tissue bank or federally designated organ procurement organization from the medical records review described in ~~G.S. 130A-412.1.~~ G.S. 130A-412.33."

SECTION 7. G.S. 20-7.3 reads as rewritten:

"§ **20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.**

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in ~~G.S. 130A-403.~~ G.S. 130A-412.4(31). The Division shall offer organ donation information and a donor card to each applicant for a drivers license. The organ donation information shall include the following:

(1) A statement informing the individual that federally designated organ procurement organizations and eye banks have read-only access to the Department-operated Organ Donor Registry Internet ~~site~~ site (hereafter "Donor Registry") listing those individuals who have stated to the Division of Motor Vehicles the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card.

(2) The type of information that will be made available on the ~~Organ Donor Internet site.~~ Donor Registry."

SECTION 8. G.S. 14-401.12(b)(2) reads as rewritten:

"(b) Definitions. – Unless a different meaning is required by the context, the following terms as used in this section have the meanings hereinafter respectively ascribed to them:

...

(2) "Contribution" shall mean any promise, gift, bequest, devise or other grant for consideration or otherwise, of any money or property of any kind or value, including the promise to pay, which contribution is wholly or partly induced by a solicitation. The term "contribution" shall not include payments by members of an organization for membership fees, dues, fines or assessments, or for services rendered to individual members, if membership in such organization confers a bona fide right, privilege, professional standing, honor or other direct benefit, other than the right to vote, elect officers, or hold offices; nor any money, credit, financial assistance or property received from any governmental authority; nor any donation of blood or any anatomical gift made pursuant to the Revised Uniform Anatomical Gift Act. Reference to dollar amounts of "contributions" or "solicitations" in this section means, in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights, and not merely that portion of the purchase price to be applied to a charitable purpose."

SECTION 9. G.S. 130A-33.30 reads as rewritten:

"§ **130A-33.30. Commission of Anatomy – Creation; powers and duties.**

There is created the Commission of Anatomy in the Department with the power and duty to adopt rules for the distribution of dead human bodies and parts thereof for the purpose of promoting the study of anatomy in the State of North Carolina. The Commission is authorized to receive dead bodies pursuant to ~~G.S. 130A-415~~ G.S. 130A-412.13 and to be a donee of a body or parts thereof pursuant to Part ~~3,~~3A, Article 16 of Chapter 130A of the General Statutes known as the Revised Uniform Anatomical Gift Act and to distribute such bodies or parts thereof pursuant to the rules adopted by the Commission."

SECTION 10. G.S. 130A-466 reads as rewritten:

"§ **130A-466. Filing requirements.**

(a) A person may submit any of the following documents and the revocations of these documents to the Secretary of State for filing in the Advance Health Care Directive Registry established pursuant to this Article:

(1) A health care power of attorney under Article 3 of Chapter 32A of the General Statutes.

(2) A declaration of a desire for a natural death under Article 23 of Chapter 90 of the General Statutes.

(3) An advance instruction for mental health treatment under Part 2 of Article 3 of Chapter 122C of the General Statutes.

(4) A declaration of an anatomical gift under Part ~~3~~3A of Article 16 of Chapter 130A of the General Statutes.

(b) Any document and any revocation of a document submitted for filing in the registry shall be notarized regardless of whether notarization is required for its validity. This subsection does not apply to ~~the document~~ a declaration of an anatomical gift described in subdivision (a)(4) of this section.

(c) The document may be submitted for filing only by the person who executed the document.

(d) The person who submits the document shall supply a return address.

(e) The document shall be accompanied by any fee required by this Article."

SECTION 11. The North Carolina Department of Transportation, Division of Motor Vehicles, in cooperation with the License to Give Trust Fund Commission, shall use available grant-in-aid funds from the State and federal governments and other sources to enhance online access such that donors and prospective donors may update, amend, or revoke information on the donor's or prospective donor's drivers license or donor card.

SECTION 12. This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede section 101(a) of that act, 15 U.S.C. § 7001, or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

SECTION 13. The North Carolina General Statutes Commission ("General Statutes Commission") shall review G.S. 130A-391, G.S. 90-602, and other statutes related to organ donation to determine whether the statutes should be amended to be consistent with and conform to the Revised Uniform Anatomical Gift Act as enacted in this act. The General Statutes Commission shall make its recommendations upon the convening of the 2008 Regular Session of the 2007 General Assembly.

SECTION 14. This act becomes effective October 1, 2007.

In the General Assembly read three times and ratified this the 27th day of July, 2007.

Became law upon approval of the Governor at 10:00 p.m. on the 31st day of August, 2007.

Session Law 2007-539 **House Bill 1500**

AN ACT TO PROVIDE THE DEFENDANT ACCESS TO DNA TESTING OF EVIDENCE WHEN CURRENT TESTING PROCEDURES ARE MORE ACCURATE THAN PAST TESTING PROCEDURES, TO AMEND THE LAW GOVERNING THE PRESERVATION AND DISPOSITION OF POSSIBLE DNA EVIDENCE AND POSTCONVICTION DNA TESTING, AND TO PROVIDE A RIGHT OF APPEAL TO A DEFENDANT FOR DENIAL OF A MOTION TO CONDUCT DNA TESTING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-267(c) reads as rewritten:

"(c) Upon a defendant's motion made before trial in accordance with G.S. 15A-952, the court may order the SBI to perform DNA testing and DNA Database comparisons of any biological material collected ~~but not DNA tested~~ in connection with the case in which the defendant is charged upon a showing of all of the following:

(1) That the biological material is relevant to the investigation.

(2) That the biological material was not previously DNA ~~tested.~~tested or that more accurate testing procedures are now available that were not available at the time of previous testing and there is a reasonable possibility that the result would have been different.

(3) That the testing is material to the defendant's defense."

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

"§ **15A-268. Preservation of ~~samples of~~ biological ~~materials.~~evidence.**

(a) As used in this section, the term 'biological evidence' includes the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, or other identifiable biological material, whether that material is catalogued separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, cigarettes, or other evidence.

~~(a)~~(a1) Notwithstanding any other provision of law and subject to subsection (b) of this section, a governmental entity ~~that collects evidence containing DNA in the course of a criminal investigation~~ in custody of evidence shall preserve ~~a sample of the evidence collected for the period of time a defendant convicted of a felony is incarcerated in connection with that case. The governmental entity may determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing.~~any physical evidence that is reasonably likely to contain any biological evidence collected in the course of a criminal investigation or prosecution. Evidence shall be preserved in a manner reasonably calculated to prevent contamination or degradation of any biological evidence that might be present, subject to a continuous chain of custody, and securely retained with sufficient official documentation to locate the evidence.

(a2) The evidence described by subsection (a1) of this section shall be preserved for the following period:

(1) For conviction resulting in a sentence of death, until execution.

(2) For conviction of a violent felony, as defined in G.S. 14-7.7(b), the evidence shall be preserved during the period of incarceration except in cases where the person convicted entered and was convicted on a plea of guilty, in which case the evidence shall be preserved for three years from the date of conviction.

(3) For conviction of an offense requiring sex offender registration pursuant to Article 27A of Chapter 14 of the General Statutes, during the period of incarceration and any period of mandatory supervised release or probation.

(4) For conviction of any felony not governed by subdivisions (1), (2), or (3) of this subsection for which the defendant's genetic profile may be taken by a law enforcement agency and included in the State DNA database, the evidence shall be preserved for a period of seven years from the date of conviction except in cases where the person convicted entered and was convicted on a plea of guilty, in which case the evidence shall be preserved for three years from the date of conviction.

(b) The governmental entity ~~may dispose of the sample of evidence containing DNA preserved~~ required to preserve evidence pursuant to subsection ~~(a)~~(a1) of this section ~~before the~~ may petition the court for an order allowing for disposition of the evidence prior to the expiration of the period of time described in ~~subsection (a)~~ subsection (a2) of this section if all of the following conditions are met:

(1) The governmental entity sent notice of its intent to dispose of the ~~sample of~~ evidence to the district attorney in the county in which the conviction was obtained.

(2) The district attorney gave to each of the following persons written notification of the intent of the ~~entity~~ governmental entity to dispose of

the ~~sample of~~ evidence: any defendant convicted of a felony who is currently incarcerated in connection with the case, the ~~current~~ defendant's current counsel of record, the Office of Indigent Defense Services, and the Attorney General. The notice shall be consistent with the provisions of this section, and the district attorney shall send a copy of the notice to the governmental entity. Delivery of written notification from the district attorney to the defendant was effectuated by the district attorney transmitting the written notification to the superintendent of the correctional facility where the defendant was assigned at the time and the superintendent's personal delivery of the written notification to the defendant. Certification of delivery by the superintendent to the defendant in accordance with this subdivision was in accordance with subsection (c) of this section.

(3) The written notification from the district attorney specified the following:

a. That the governmental entity would destroy the ~~sample of~~ evidence collected in connection with the case unless the governmental entity received a written request that the ~~sample of~~ evidence not be destroyed.

b. The address of the governmental entity where the written request was to be sent.

c. That the written request must be received by the governmental entity within 90 days of the date of receipt by the defendant of the district attorney's written notification.

d. That the written request must ask that the material not be destroyed or disposed of for one of the following reasons:

1. The case is currently on appeal.

2. The case is currently in postconviction proceedings.

3. The defendant will file within 180 days of the date of receipt by the defendant of the district attorney's written notification a motion for DNA testing pursuant to G.S. 15A-269, that is followed within 180 days of sending the request that the ~~sample of~~ evidence not be destroyed or disposed of, by a motion for DNA testing pursuant to G.S. 15A-269, unless a request for extension is requested by the defendant and agreed to by the governmental entity in possession of the evidence.

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

(c) Upon receiving a written notification from a district attorney in accordance with subdivision (b)(3) of this section, the superintendent shall personally deliver the written notification to the defendant. Upon effectuating personal delivery on the defendant, the superintendent shall sign a sworn written certification that the written notification had been delivered to the defendant in compliance with this subsection indicating the date the delivery was made. The superintendent's certification shall be sent by the superintendent to the governmental entity that intends to dispose of the sample of evidence. The governmental entity may rely on the superintendent's

certification as evidence of the date of receipt by the defendant of the district attorney's written notification.

(d) After a hearing, the court may enter an order authorizing the governmental entity to dispose of the evidence if the court determines by the preponderance of the evidence that the evidence:

(1) Has no significant value for biological analysis and should be returned to its rightful owner, destroyed, used for training purposes, or otherwise disposed of as provided by law;

(2) Has no significant value for biological analysis and is of a size, bulk, or physical characteristic not usually retained by the governmental entity and cannot practically be retained by the governmental entity; or

(3) May have value for biological analysis but is of a size, bulk, or physical characteristic not usually retained by the governmental entity and cannot practically be retained by the governmental entity.

(e) The court order allowing the disposition of the evidence pursuant to this section may require the governmental entity to take reasonable measures to remove or preserve portions of evidence suitable for future biological testing or may provide the defendant an opportunity to take reasonable measures to preserve the evidence.

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

SECTION 3. G.S. 15A-269(b) reads as rewritten:

"(b) The court shall grant the motion for DNA testing of the evidence upon its determination that:

(1) The conditions set forth in subdivisions (1), (2), and (3) of subsection (a) of this section have been met; ~~and~~

(2) If the DNA testing being requested had been conducted on the evidence, there exists a reasonable probability that the verdict would have been more favorable to the ~~defendant.~~defendant; and

(3) The defendant has signed a sworn affidavit of innocence."

SECTION 4. Article 13 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-270.1. Right to appeal denial of defendant's motion for DNA testing.**

The defendant may appeal an order denying the defendant's motion for DNA testing under this Article, including by an interlocutory appeal."

SECTION 5. This act becomes effective March 1, 2008.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Became law upon approval of the Governor at 10:02 p.m. on the 31st day of August, 2007.

Session Law 2007-540 **House Bill 1517**

AN ACT TO ESTABLISH A PILOT PROGRAM TO PROVIDE CANDIDATES FOR CERTAIN COUNCIL OF STATE OFFICES WITH THE OPTION OF FINANCING THEIR CAMPAIGNS FROM A PUBLICLY SUPPORTED FUND, PROVIDED THAT THEY GAIN AUTHORIZATION TO DO SO FROM REGISTERED VOTERS AND THAT THEY ABIDE BY STRICT

FUND-RAISING AND SPENDING LIMITS; AND TO APPROPRIATE FUNDS TO FINANCE THE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 22J.

"The Voter-Owned Elections Act.

"**§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.**

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured. Accordingly, this Article establishes the North Carolina Voter-Owned Elections Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for the Council of State offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance in elections to be held in 2008 and thereafter.

"**§ 163-278.96. Definitions.**

The following definitions apply in this Article:

(1) Board. – The State Board of Elections.

(2) Campaign-related expenditure. – An expenditure that benefits the candidate's current campaign in accordance with guidelines established by the Board.

(3) Candidate. – An individual who becomes a candidate as described in G.S. 163-278.6(4). The term includes a 'candidate campaign committee' as defined in G.S. 163-278.38Z(3).

(4) Certified candidate. – A candidate for office who chooses to receive campaign funds from the Fund and who is certified under G.S. 163-278.98(c).

(5) Contested primary and contested general election. – An election in which there are more candidates than the number to be elected.

(6) Contribution. – Defined in G.S. 163-278.6. A distribution from the Fund pursuant to this Article is not a 'contribution' and is not subject to the limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or G.S. 163-278.19. Instead of being subject to G.S. 163-278.16B, distributions are subject to the guidelines issued by the Board pursuant to G.S. 163-278.98(e)(5).

(6a) Electioneering communication. – As defined in G.S. 163-278.80 and G.S. 163-278.90, except that it is made during the period beginning 30 days before absentee ballots become available for a primary and ending on primary election day and during the period 60 days before absentee ballots become available for a general election and ending on general election day.

(7) Expenditure. – Defined in G.S. 163-278.6.

(8) Fund. – The North Carolina Voter-Owned Elections Fund established in G.S. 163-278.97.

(9) Independent expenditure. – Defined in G.S. 163-278.6.

(10) Maximum qualifying contributions. – If the candidate has an uncontested primary, an amount equal to 100 times the filing fee for the office sought. If the candidate has a contested primary, 200 times the filing fee for the office sought.

(11) Nonparticipating candidate. – A candidate for office who is not seeking to be certified under G.S. 163-278.98(c).

(12) Office. – The Council of State offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance.

(13) Participating candidate. – A candidate for office who has filed a declaration of intent to participate under G.S. 163-278.98(a).

(14) Political committee. – Defined in G.S. 163-278.6.

(15) Qualifying contribution. – A contribution of not less than ten dollars ($10.00) and not more than two hundred dollars ($200.00) in the form of a check or money order to the candidate that meets both of the following conditions:

a. Made by any registered voter in this State.

b. Made only during the qualifying period and obtained with the approval of the candidate or candidate's committee.

(16) Qualifying period. – The period beginning September 1 in the year before the election and ending on the day of the primary.

(17) Trigger for matching funds. – The dollar amount at which matching funds are released under G.S. 163-278.99B for certified candidates. In the case of a contested primary, the trigger equals the maximum qualifying contributions for the candidate. In the case of a contested general election, the trigger equals the base level of funding available under G.S. 163-278.99(b)(2).

"**§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.**

(a) Establishment of Fund. – The North Carolina Voter-Owned Elections Fund is established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the Board related to this Article. The Fund is a special, dedicated, nonlapsing, nonreverting fund. Any interest generated by the Fund is credited to the Fund. The Board shall administer the Fund.

(b) Sources of Funding. – Money received from all the following sources must be deposited in the Fund:

(1) Unspent Fund revenues distributed for an election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election.

(2) Money ordered returned to the Fund in accordance with G.S. 163-278.99D.

(3) Money paid to the Fund equal to excess contributions as provided in G.S. 163-278.98(e)(1).

(4) Voluntary donations made directly to the Fund.

(5) Appropriations from the General Fund.

(c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every four years thereafter, the Board, in conjunction with the Advisory Council

established under G.S. 163-278.68(b), shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund during the next election cycle and make recommendations about the feasibility of expanding its provisions to include other candidates for State office based on the experience of this Article and the experience of similar programs in North Carolina and other states. The Board shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this Article, including spending that appears to target candidates but is not reached by regulation.

"**§ 163-278.98. Requirements for participation.**

(a) Declaration of Intent to Participate. – Any individual choosing to receive campaign funds from the Fund shall first file with the Board a declaration of intent to participate in the program established by this Article as a candidate for a stated office. The declaration of intent shall be filed before or during the qualifying period and before collecting any qualifying contributions. In the declaration, the candidate shall swear or affirm that only one political committee, identified with its treasurer, shall handle all contributions, campaign-related expenditures, and obligations for the participating candidate and that the candidate will comply with the contribution and expenditure limits set forth in subsection (e) of this section and all other requirements set forth in this Article or adopted by the Board. Failure to comply is a violation of this Article.

(b) Demonstration of Support of Candidacy. – In order to be certified, participating candidates must obtain qualifying contributions from at least 750 registered voters in this State. The qualifying contributions shall be equal to at least 25 times the amount of the filing fee for the office. No payment, gift, or anything of value shall be given in exchange for a qualifying contribution.

(c) Certification of Candidates. – Upon receipt of a submittal of the record of qualifying contributions by a participating candidate, the Board shall determine whether or not the candidate has:

(1) Filed a completed declaration of intent to participate in this Article.

(2) Submitted a report itemizing the appropriate number of qualifying contributions received from registered voters, which the Board shall verify through a random sample or other means it adopts. The report shall include the county of residence of each registered voter listed.

(3) Filed a notice of candidacy with the State Board of Elections as a candidate for the office.

(4) Otherwise met the requirements for participation in this Article.

The Board shall certify candidates complying with the requirements of this section as soon as possible and no later than five business days after receipt of a satisfactory record of qualifying contributions.

(d) Final Report for Qualifying Contributions. – No later than five business days after the end of the qualifying period, all participating candidates shall submit a report to the Board of all previously unreported qualifying contributions, in accordance with procedures developed by the Board. Within seven business days after submittal of the final report, the Board shall determine, through a random audit or other means it adopts, whether the contributions abide by the definition of qualifying contributions, whether they must be returned to the donor, and whether they exceed the maximum amount of qualifying contributions.

(e) Restrictions on Contributions and Expenditures for Participating and Certified Candidates. – The following restrictions shall apply to contributions and expenditures with respect to participating and certified candidates:

(1) Beginning August 1 of the year before the election and before filing a declaration of intent, a candidate shall limit campaign-related expenditures to twenty thousand dollars ($20,000) and shall not accept more than twenty thousand dollars ($20,000) from sources and in amounts permitted by Article 22A of this Chapter. A candidate who exceeds either of these limits shall be ineligible to file a declaration of intent or receive funds from the Fund. However, the acceptance of contributions in excess of that twenty thousand dollar ($20,000) limit does not render the candidate ineligible if the candidate pays to the Board an amount equal to the contributions accepted by the candidate in excess of that limit. The Board shall deposit all such payments into the Fund.

(2) From the filing of a declaration of intent through the end of the qualifying period, a candidate may accept only qualifying contributions, contributions under ten dollars ($10.00) from North Carolina voters, in-kind party contributions as permitted in subdivision (4) of this subsection, and personal and family contributions permitted under subdivision (4a) of this subsection. The total contributions the candidate may accept during this period shall not exceed the maximum qualifying contributions for that candidate. In addition to these contributions, the candidate may only expend during this period the remaining money raised pursuant to subdivision (1) of this subsection and possible matching funds received pursuant to G.S. 163-278.99B. If the candidate has any remaining money that was raised as contributions before August 1 of the year before the election, the candidate may not expend that money after filing the declaration of intent, except for purposes permitted under subdivision (2), (3), (6), (7), or (8) of G.S. 163-278.16B(a).

(3) After the qualifying period and through the date of the general election, the candidate shall cease campaign-related fund-raising activities and shall expend only the funds the candidate receives from the Fund pursuant to G.S. 163-278.99(b) plus any funds remaining from the qualifying period and possible matching funds.

(4) In addition to the amounts above, a candidate may accept in-kind contributions from political party executive committees, up to an aggregate value of thirty thousand dollars ($30,000) for the election cycle.

(4a) During the qualifying period, the candidate may contribute up to one thousand dollars ($1,000) of that candidate's own money to the campaign. Debt incurred by the candidate for a campaign expenditure shall count toward that limit. The candidate may accept in contributions one thousand dollars ($1,000) from each member of that candidate's family consisting of spouse, parent, child, brother, and sister.

(5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for

campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures.

(6) Except as provided in subdivision (1) of this subsection, any contribution received by a participating or certified candidate that falls outside that permitted by this subsection shall be returned to the donor as soon as practicable. Contributions intentionally made, solicited, or accepted in violation of this Article are subject to civil penalties as specified in G.S. 163-278.99D. The funds involved shall be forfeited to the Civil Penalty and Forfeiture Fund.

(7) A candidate shall return to the Fund any amount distributed for an election that is unspent and uncommitted at the date of the election or at the time the individual ceases to be a certified candidate, whichever occurs first. For accounting purposes, all qualifying, personal, and family contributions shall be considered spent before revenue from the Fund is spent or committed.

(f) Revocation. – A candidate may revoke, in writing to the Board, a decision to participate in the Fund at any time. After a revocation, that candidate may accept and expend outside the limits of this Article without violating this Article. Within 10 days after revocation, a candidate shall return to the Board all money received from the Fund.

"**§ 163-278.99. Distribution from the Fund.**

(a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate revenue from the Fund in an amount determined under subdivision (b)(4) of this section as follows:

(1) One-third of the amount within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election, but no earlier than five business days after the primary.

(2) The remainder of the amount on August 1 before the general election.

(b) Amount of Fund Distribution. – By August 1, 2011, and no less frequently than every four years thereafter, the Board shall determine the amount of funds, rounded to the nearest one hundred dollars ($100.00), to be distributed to certified candidates as follows:

(1) Uncontested primaries. – No funds shall be distributed.

(2) Contested primaries. – No funds shall be distributed except as provided in G.S. 163-278.99B.

(3) Uncontested general elections. – No funds shall be distributed.

(4) Contested general elections. – The amount of funds to be distributed to a candidate is the average amount of campaign-related expenditures made by all candidates who won the immediately preceding three general elections for that office, but not less than three hundred thousand dollars ($300,000). For purposes of this subsection, "campaign-related expenditures" does not include loan repayments and contributions to a candidate, political committee, or political party.

(c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer and the State Controller, shall develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to

each candidate's eligible funding, and the candidate may raise additional money in the same manner as a nonparticipating candidate for the same office up to the unfunded amount of the candidate's eligible funding.

"**§ 163-278.99A. Reporting requirements.**

(a) Reporting by Noncertified Candidates and Other Entities. – Any nonparticipating candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24 hours after the total amount of campaign-related expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for matching funds as defined in G.S. 163-278.96(17). Any entity making independent expenditures in support of or in opposition to a certified candidate, or in support of a candidate opposing a certified candidate, or paying for electioneering communications referring to one of those candidates, shall report the total funds received, spent, or obligated for those expenditures or payments to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars ($5,000). After this 24-hour filing, the nonparticipating candidate or other reporting entity shall comply with an expedited reporting schedule by filing additional reports after receiving an additional amount in excess of one thousand dollars ($1,000) or after making or obligating to make an additional expenditure or payment in excess of one thousand dollars ($1,000). The schedule and forms for reports required by this subsection shall be made according to procedures developed by the Board.

(b) Reporting by Participating and Certified Candidates. – Notwithstanding other provisions of law, participating and certified candidates shall report any money received and all campaign expenditures, obligations, and related activities to the Board according to procedures developed by the Board. Upon the filing of a final report for any losing primary election, special election, or general election, each candidate who has revenues from the Fund remaining unspent shall return those revenues to the Board. In developing these procedures, the Board shall utilize existing campaign reporting procedures wherever practicable.

(c) Timely Access to Reports. – The Board shall ensure prompt public access to the reports received in accordance with this Article. The Board may utilize electronic means of reporting and storing information.

"**§ 163-278.99B. Matching funds.**

(a) When Matching Funds Become Available. – When any report or group of reports shows that 'funds in opposition to a certified candidate or in support of an opponent to that candidate' as described in this section exceed the trigger for matching funds as defined in G.S. 163-278.96(17), the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth in this section. 'Funds in opposition to a certified candidate or in support of an opponent to that candidate' shall be equal to the sum of subdivisions (1) and (2) as follows:

(1) The greater of the following:

a. Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one nonparticipating opponent of a certified candidate. Where a certified candidate has more than one nonparticipating

opponent, the measure shall be taken from the nonparticipating candidate showing the highest relevant dollar amount.

b. The funds distributed in accordance with G.S. 163-278.99(b) to a certified opponent of the certified candidate.

(2) The aggregate total of all expenditures and payments reported in accordance with G.S. 163-278.99A(a) of entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

(b) Limit on Matching Funds in Contested Primary. – Total matching funds to a certified candidate in a contested primary shall be limited to an amount equal to the maximum qualifying contributions for a candidate with a contested primary.

(c) Limit on Matching Funds in Contested General Election. – Total matching funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in G.S. 163-278.99(b)(2).

(d) Determinations by Board. – In the case of electioneering communications, the Board shall determine which candidate, if any, is entitled to receive matching funds as a result of the communication. The Board shall issue matching funds based on the communication only if it ascertains that the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. In making its determination, the Board shall not consider evidence external to the communication itself of the intent of the sponsor or the effect of the communication. The Board shall notify each candidate it determines is entitled to receive matching funds based on those communications, the sponsor of those communications, and any candidate who is an opponent of the candidate it determines is entitled to the matching funds. The Board shall give the sponsor of the communication and any opposing candidate an adequate opportunity to rebut the determination of the Board. In considering the rebuttal, all candidates in the race and the sponsor shall be given adequate and equal opportunity to be heard. The Board shall adopt procedures for implementing this subsection, balancing in those procedures adequacy of opportunity to rebut and adequacy and equality of opportunity to be heard on the rebuttal with the need to expedite the decision on awarding matching funds. The Board shall distribute the matching funds, if any, at the conclusion of its process.

"**§ 163-278.99C. Unaffiliated and new-party candidates.**

Unaffiliated candidates certified pursuant to G.S. 163-122 and new-party candidates certified pursuant to G.S. 163-98 shall be eligible for revenues from the Fund in the same amounts and at the same time as specified in G.S. 163-278.99. For unaffiliated candidates and new-party candidates not certified to appear on the ballot by noon on the deadline set in G.S. 163-106(c) for candidate filing in the election year, the deadline for seeking certification to receive revenue from the Fund is noon on the first business day of July of the election year.

"**§ 163-278.99D. Enforcement by the Board; civil penalty.**

In addition to any other penalties that may be applicable, any individual, political committee, or other entity that violates any provision of this Article is subject to a civil penalty of up to ten thousand dollars ($10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. In addition to any fine, for good cause shown, a candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the candidate from the Fund. If the Board makes a determination that a violation of this Article has occurred, the Board

shall calculate and assess the amount of the civil penalty and shall notify the entity that is assessed the civil penalty of the amount that has been assessed. The Board shall then proceed in the manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation of this Article, the Board may consider as a mitigating factor any circumstances out of the candidate's control.

"**§ 163-278.99E. Voter education.**

(a) Voter Guide. – The Board shall publish a Voter Guide that explains the functions of office as defined in G.S. 163-278.96(12) and the laws concerning the election of the Council of State, the purpose and function of the Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The State Board of Elections shall maintain a list of the addresses from which mailed Voter Guides are returned as undeliverable. That list shall be available for public inspection. The distribution shall occur no more than 14 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the primary and no more than 14 days nor fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for the general election.

(b) Candidate Information. – The Voter Guide shall include information concerning all candidates for office as defined in G.S. 163-278.96(12), as provided by those candidates according to a format provided to the candidates by the Board. The Board shall request information for the Guide from each candidate according to the following format:

(1) Place of residence.
(2) Education.
(3) Occupation.
(4) Employer.
(5) Previous elective offices held.
(6) Endorsements, limited to 50 words. Concerning endorsements, the Board shall send to the candidates instructions as follows: "In order to have an endorsement published, you must provide written confirmation to the Board from the endorsing person or organization that you received that person's or organization's endorsement."
(7) Candidate statement, limited to 150 words. Concerning that statement, the Board shall send to the candidates instructions as follows: "Your statement may include information such as your qualifications, your endorsements, why you would make a good elected official, what distinguishes you from your opponent(s), and any other information relevant to your candidacy. The State Board of Elections will reject any portion of any statement which it determines contains obscene, profane, or defamatory language. The candidate shall have three days to resubmit the candidate statement if the Board rejects a portion of the statement."

(c) Disclaimer. – The Voter Guide shall contain the following statement: "Statements by candidates do not express or reflect the opinions of the State Board of Elections."

(d) Relationship to the Judicial Voter Guide. – The Board may publish the Voter Guide in conjunction with the Judicial Voter Guide described in G.S. 163-278.69."

SECTION 2. G.S. 163-278.13(e) reads as rewritten:

"(e) Except as provided in subsections ~~(e2) and (e3)~~ (e2), (e3), and (e4) of this section, this section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163-96."

SECTION 3. G.S. 163-278.13 is amended by adding a new subsection to read:

"(e4) In order to make meaningful the provisions of the North Carolina Voter-Owned Elections Act, as set forth in Article 22J of this Chapter, no candidate for an office subject to that Article shall accept, and no contributor shall make to that candidate, a contribution during the period beginning 21 days before the day of the general election and ending the day after the general election if that contribution causes the candidate to exceed the 'trigger for matching funds' defined in G.S. 163-278.96(17). As used in this subsection, the term 'candidate' also includes 'candidate campaign committee' as defined in G.S. 163-278.38Z(3). Nothing in this subsection shall prohibit a candidate from making a contribution or loan secured entirely by that candidate's assets to that candidate's own campaign or to a political committee, the principal purpose of which is to support that candidate's campaign. This subsection applies with respect to a candidate only if both of the following statements are true regarding that candidate:

(1) That candidate is opposed in the general election by a certified candidate as defined in Article 22J of this Chapter.

(2) That certified candidate has not received the maximum matching funds available under G.S. 163-278.99B(c).

The recipient of a contribution that apparently violates this subsection has three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this subsection."

SECTION 4. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 5. There is appropriated from the General Fund to the State Board of Elections the sum of one million dollars ($1,000,000) for the 2007-2008 fiscal year and the sum of three million five hundred eighty thousand dollars ($3,580,000) for the 2008-2009 fiscal year for the implementation of this act.

SECTION 6. Sections 1 through 3 of this act become effective 30 days after this act is given preclearance under section 5 of the Voting Rights Act of 1965. This act applies to elections for Auditor, Superintendent of Public Instruction, and Commissioner of Insurance in 2008 and thereafter. Section 5 of this act becomes effective July 1, 2007. The State Board of Elections shall make the kind of report required in G.S. 163-278.97(c), as enacted in this act, as soon as feasible before the 2008 election. The State Board of Elections shall make the determination required in G.S. 163-278.99(b), as enacted in this act, as soon as feasible before the 2008 election. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:05 p.m. on the 31st day of August, 2007.

Session Law 2007-541 **House Bill 1671**

AN ACT TO PROVIDE FOR THE ARBITRATION OF CLAIMS FOR PERSONAL INJURY OR WRONGFUL DEATH BASED ON ALLEGED NEGLIGENCE IN THE PROVISION OF HEALTH CARE, UPON THE AGREEMENT OF ALL PARTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 1H.

"Voluntary Arbitration of Negligent Health Care Claims.

"**§ 90-21.60. Voluntary arbitration; prior agreements to arbitration void.**

(a) Application of Article. – This Article applies to all claims for damages for personal injury or wrongful death based on alleged negligence in the provision of health care by a health care provider as defined in G.S. 90-21.11 where all parties have agreed to submit the dispute to arbitration under this Article in accordance with the requirements of G.S. 90-21.61.

(b) When Agreement Is Void. – Except as provided in G.S. 90-21.61(a), any contract provision or other agreement entered into prior to the commencement of an action that purports to require a party to elect arbitration under this Article is void and unenforceable. This Article does not impair the enforceability of any arbitration provision that does not specifically require arbitration under this Article.

"**§ 90-21.61. Requirements for submitting to arbitration.**

(a) Before Action Is Filed. – Before an action is filed, a person who claims damages for personal injury or wrongful death based on alleged negligence in the provision of health care by a health care provider as defined in G.S. 90-21.11 and the allegedly negligent health care provider may jointly submit their dispute to arbitration under this Article by, acting through their attorneys, filing a stipulation to arbitrate with the clerk of superior court in the county where the negligence allegedly occurred. The filing of such a stipulation provides jurisdiction to the superior court to enforce the provisions of this Article and tolls the statute of limitations.

(b) Once Action Is Filed. – The parties to an action for damages for personal injury or wrongful death based on alleged negligence in the provision of health care by a health care provider as defined in G.S. 90-21.11 may elect at any time during the pendency of the action to file a stipulation with the court in which all parties to the action agree to submit the dispute to arbitration under this Article.

(c) Declaration Not to Arbitrate. – In the event that the parties do not unanimously agree to submit a dispute to arbitration under subsection (b) of this section, the parties shall file a declaration with the court prior to the discovery scheduling conference required by G.S. 1A-1, Rule 26(f1).

The declaration shall state that the attorney representing the party has presented the party with a copy of the provisions of this Article, that the attorneys representing the parties have discussed the provisions of this Article with the parties and with each other, and that the parties do not unanimously agree to submit the dispute to arbitration under this Article. The declaration is without prejudice to the parties' subsequent agreement to submit the dispute to arbitration.

"**§ 90-21.62. Selection of arbitrator.**

(a) Selection by Agreement. – An arbitrator shall be selected by agreement of all the parties no later than 45 days after the date of the filing of the stipulation where the parties agreed to submit the dispute to arbitration under this Article. The parties may agree to select more than one arbitrator to conduct the arbitration. The parties may agree in writing to the selection of a particular arbitrator or particular arbitrators as a precondition for a stipulation to arbitrate.

(b) Selection From List. – If all the parties are unable to agree to an arbitrator by the time specified in subsection (a) of this section, the arbitrator shall be selected from emergency superior court judges who agree to be on a list maintained by the Administrative Office of the Courts. Each party shall alternately strike one name on the list, and the last remaining name on the list shall be the arbitrator. The emergency superior court judge serving as an arbitrator would be compensated at the same rate as an emergency judge serving in superior court.

"**§ 90-21.63. Witnesses; discovery; depositions; subpoenas.**

(a) General Conduct of Arbitration; Experts. – The arbitrator may conduct the arbitration in such manner as the arbitrator considers appropriate so as to aid in the fair and expeditious disposition of the proceeding subject to the requirements of this section and G.S. 90-21.64. Except as provided in subsection (b) of this section, each side shall be entitled to two experts on the issue of liability, two experts on the issue of damages, and one rebuttal expert.

(b) Experts in Case of Multiple Parties. – Where there are multiple parties on one side, the arbitrator shall determine the number of experts that are allowed based on the minimum number of experts necessary to ensure a fair and economic resolution of the action.

(c) Discovery. – Notwithstanding G.S. 90-21.64(a)(1), unless the arbitrator determines that exceptional circumstances require additional discovery, each party shall be entitled to all of the following discovery from any other party:

(1) Twenty-five interrogatories, including subparts.

(2) Ten requests for admission.

(3) Whatever is allowed under applicable court rules for:

a. Requests for production of documents and things and for entry upon land for inspection and other purposes; and

b. Requests for physical and mental examinations of persons.

(d) Depositions. – Each party shall be entitled to all of the following depositions:

(1) Depositions of any party and any expert that a party expects to call as a witness. – Except by order of the arbitrator for good cause shown, the length of the deposition of a party or an expert witness under this subdivision shall be limited to four hours.

(2) Depositions of other witnesses. – Unless the arbitrator determines that exceptional circumstances require additional depositions, the total number of depositions of persons under this subdivision shall be limited to five depositions per side, each of which shall last no longer than two hours and for which each side shall be entitled to examine for one hour.

(e) Subpoenas. – An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena shall be served in the manner for service of subpoenas in a civil action and, upon the motion to the court by a party to the arbitration proceeding

or by the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

"**§ 90-21.64. Time limitations for arbitration.**

(a) Time Frames. – The time frames provided in this section shall run from the date of the filing of the stipulation where the parties agreed to submit the dispute to arbitration under the Article. Any arbitration under this Article shall be conducted according to the time frames as follows:

(1) Within 45 days, the claimant shall provide a copy to the defendants of all relevant medical records. Alternatively, the claimant may provide to the defendants a release, in compliance with the federal Health Insurance Portability and Accountability Act, for all relevant medical records, along with the names and addresses of all health care providers who may have possession, custody, or control of the relevant medical records. The provisions of this subdivision shall not limit discovery conducted pursuant to G.S. 90-21.63(c).

(2) Within 120 days, the claimant shall disclose to each defendant the name and curriculum vitae or other documentation of qualifications of any expert the claimant expects to call as a witness.

(3) Within 140 days, each defendant shall disclose to the claimant the name and curriculum vitae or other documentation of qualifications of any expert the defendant expects to call as a witness.

(4) Within 160 days, each party shall disclose to each other party the name and curriculum vitae or other documentation of qualifications of any rebuttal expert the party expects to call as a witness.

(5) Within 240 days, all discovery shall be completed.

(6) Within 270 days, the arbitration hearing shall commence.

(b) Scheduling Order. – The arbitrator shall issue a case scheduling order in every proceeding specifying the dates by which the requirements of subdivisions (2) through (6) of subsection (a) of this section shall be completed. The scheduling order also shall specify a deadline for the service of dispositive motions and briefs.

(c) Public Policy as to When Hearings Begin. – It is the express public policy of the General Assembly that arbitration hearings under this Article be commenced no later than 10 months after the parties file the stipulation where the parties agreed to submit the dispute to arbitration under this Article. The arbitrator may grant a continuance of the commencement of the arbitration hearing only where a party shows that exceptional circumstances create an undue and unavoidable hardship on the party or where all parties consent to the continuance.

"**§ 90-21.65. Written decision by arbitration.**

(a) Issuing the Decision. – The arbitrator shall issue a decision in writing and signed by the arbitrator within 14 days after the completion of the arbitration hearing and shall promptly deliver a copy of the decision to each party or the party's attorneys.

(b) Limit on Damages. – The arbitrator shall not make an award of damages that exceeds a total of one million dollars ($1,000,000) for any dispute submitted to arbitration under this Article, regardless of the number of claimants or defendants that are parties to the dispute.

(c) Finding if Damages Awarded. – If the arbitrator makes an award of damages to the claimant, the arbitrator shall make a finding as to whether the injury or death was caused by the negligence of the defendant.

(d) Paying the Arbitrator. – The fees and expenses of the arbitrator shall be paid equally by the parties.

(e) Attorneys' Fees and Costs. – Each party shall bear its own attorneys' fees and costs.

"**§ 90-21.66. Judgment by court.**

After a party to the arbitration proceeding receives notice of a decision, the party may file a motion with the court for a judgment in accordance with the decision at which time the court shall issue such a judgment unless the decision is modified, corrected, or vacated as provided in G.S. 90-21.68.

"**§ 90-21.67. Retention of jurisdiction by court.**

The court shall retain jurisdiction over the action during the pendency of the arbitration proceeding. The court may, at the request of the arbitrator, enter orders necessary to enforce the provisions of this Article.

"**§ 90-21.68. Appeal of arbitrator's decision.**

There is no right to a trial de novo on an appeal of the arbitrator's decision under this Article. An appeal of the arbitrator's decision is limited to the bases for appeal provided under G.S. 1-569.23 or G.S. 1-569.24.

"**§ 90-21.69. Revised Uniform Arbitration Act not applicable.**

The provisions of Article 45C of Chapter 1 of the General Statutes do not apply to arbitrations conducted under this Article except to the extent specifically provided in this Article."

SECTION 2. G.S. 1-569.3 is amended by adding a new subsection to read:

"(c) This Article does not govern arbitrations under Article 1H of Chapter 90 of the General Statutes."

SECTION 3. This act becomes effective January 1, 2008, and applies to agreements to arbitrate entered into on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 10:07 p.m. on the 31st day of August, 2007.

Session Law 2007-542 **House Bill 1702**

AN ACT TO CONSERVE ENERGY AND TO REQUIRE A STUDY OF THE DEGREE OF INSULATION FOR HOT WATERLINES THAT SHOULD BE REQUIRED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering

of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices the following:

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Health Services which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space ~~requirements.~~ requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 2. The North Carolina Building Code Council shall study the extent to which hot waterlines should be insulated to achieve greater energy efficiency and shall amend the North Carolina State Building Code as necessary to achieve those ends. The Council shall report its findings and actions to the Environmental Review Commission and the 2008 Regular Session of the General Assembly on or before 1 April 2008.

SECTION 3. Sections 2 and 3 of this act are effective when this act becomes law. Section 1 of this act becomes effective 1 January 2008 and applies to all new construction for which permits are issued on or after that date.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Became law upon approval of the Governor at 10:10 p.m. on the 31st day of August, 2007.

Session Law 2007-543 **Senate Bill 6**

AN ACT TO (1) CLARIFY THE APPLICATION OF CERTAIN SETBACK REQUIREMENTS FOR DISPOSAL UNITS OF SANITARY LANDFILLS; (2) REVISE THE DISTRIBUTION OF THE PROCEEDS OF THE SOLID WASTE DISPOSAL TAX; AND (3) PROVIDE REIMBURSEMENT OF CERTAIN COSTS INCURRED IN CONNECTION WITH APPLICATIONS FOR PERMITS FOR SANITARY LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) If Senate Bill 1492 becomes law, then G.S. 130A-295.6(d), as enacted by Section 9(a) of Senate Bill 1492, reads as rewritten:

"(d) The Department shall not issue a permit to construct any disposal unit of a sanitary landfill if, ~~at the time the application is determined to be complete under G.S. 130A-295.8(e),~~ at the earlier of (i) the acquisition by the applicant or permit holder of the land or of an option to purchase the land on which the waste disposal unit will be located, (ii) the application by the applicant or permit holder for a franchise agreement, or (iii) at the time of the application for a permit, any portion of the proposed waste disposal unit would be located within:

(1) Five miles of the outermost boundary of a National Wildlife Refuge.
(2) One mile of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission pursuant to G.S. 113-306.
(3) Two miles of the outermost boundary of a component of the State Parks System."

SECTION 1.(b) If Senate Bill 1492 becomes law, then Section 9(b) of Senate Bill 1492, reads as rewritten:

"**SECTION 9.(b)** This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that ~~date.~~date, except that G.S. 130A-295.6(d), as enacted by this section, becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is submitted on or after that date. G.S. 130A-295.6(d) applies to any application for a permit for a solid waste management facility that is pending on 1 August 2007 on the basis of the boundaries of the lands described in subdivisions (1), (2), and (3) of G.S. 130A-295.6(d) as of 1 August 2007. To the extent that G.S. 130A-295.6, as enacted by this section, imposes requirements that are more stringent than those in effect prior to 1 August 2007, the more stringent requirements do not apply to:

(1) An amendment, modification, or other change to a permit for a landfill issued on or before 1 June 2006.
(2) A permit for a horizontal or vertical expansion of the landfill permitted on or before 1 June 2006.
(3) A permit to construct a new landfill within the facility boundary identified in the facility plan of a landfill permitted on or before 1 June 2006.
(4) A permit to operate a new landfill if a permit to construct the new landfill was issued on or before 1 June 2006.
(5) A permit for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.
(6) A permit for a sanitary landfill determined to be necessary by the Secretary of Environment and Natural Resources in order to respond to an imminent hazard to public health or a natural disaster."

SECTION 1.(c) If Senate Bill 1492 becomes law, Senate Bill 1492 is amended by adding a new section to read:

"**SECTION 9.(c)** This section does not apply to landfills for the disposal of land clearing and inert debris or to Type I or Type II compost facilities."

SECTION 2. If Senate Bill 1492 becomes law, then G.S. 105-187.63, as enacted by Section 14(a) of Senate Bill 1492, reads as rewritten:

"§ **105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary shall credit or distribute taxes received pursuant to this Article, less the cost of collection, as follows:

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) ~~Thirty-seven and one-half percent (37.5%) to units of local government that provide solid waste management services directly to residents within the political boundaries of the unit of local government as determined by the Department of Environment and Natural Resources, distributed on a per capita basis as described in G.S. 105-472(b)(1). Funds distributed under this subdivision shall be used by a unit of local government solely for solid waste management programs and services. As used in this subdivision, "unit of local government" includes a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes.~~ Eighteen and seventy-five one hundredths percent (18.75%) to cities in the State on a per capita basis and eighteen and seventy-five one hundredths percent (18.75%) to counties in the State on a per capita basis. For purposes of this subdivision, persons who reside within a city shall not be counted in the population of the county or counties in which the city is located. Funds distributed under this subdivision shall be used by a unit of local government solely for solid waste management programs and services.

(3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 3.(a) Declaration of Purpose and Intent. – Notwithstanding that an applicant for a permit does not have a reasonable expectation that the law governing the permit will remain unchanged and that the applicant acquires no vested right by virtue of having made an application, the General Assembly finds that it is in the public interest to provide for the potential compensation of certain applicants who submitted an application for a permit for a solid waste management facility prior to 1 August 2006 and whose application would be denied under G.S. 130A-295.6(d).

SECTION 3.(b) Reimbursement of Application Costs. – An applicant for a permit for a sanitary landfill may request reimbursement for the reasonable costs for preparation of the permit application incurred prior to 1 August 2006 if the permit would be denied under G.S. 130A-295.6(d).

SECTION 3.(c) Eligibility for Reimbursement. – To be eligible for reimbursement under this section, the request for reimbursement shall demonstrate all of the following:

(1) The application for a permit to construct a sanitary landfill was submitted to the Department on or before 1 August 2006.

(2) The applicant obtained a landfill franchise from the local government with jurisdiction over the site of the proposed landfill on or before 1 August 2006.

(3) The Department did not grant the permit application in whole or in part.

(4) The Department did not deny the permit application before 1 August 2007.

(5) The applicant did not withdraw the permit application before 1 August 2007.

(6) That the applicant had a reasonable expectation that the application for a permit would have been approved but for the enactment of G.S. 130A-295.6(d).

SECTION 3.(d) Costs Eligible for Reimbursement. – Costs that are necessary for the preparation of the permit application and that are reasonably incurred are eligible for reimbursement under this section. These costs may include site studies, facility plans, construction and engineering plans, construction quality assurance plans, geologic and hydrologic investigations, operation plans, wildlife or wildlife management studies, closure and post-closure plans, information required by the Department to satisfy financial assurance and financial responsibility requirements, and other information required by the Department in the permit review. These costs may also include the reasonable fees of environmental consultants, engineers, geologists, other professionals whose services were necessary to prepare the permit application or to respond to information requests from the Department, and legal costs to obtain a landfill franchise or other approval from the local government with jurisdiction over the site of the proposed sanitary landfill.

SECTION 3.(e) Costs Not Eligible for Reimbursement. – None of the following costs incurred by or on behalf of the applicant is eligible for reimbursement:

(1) The costs of acquiring interests in land for construction of the proposed sanitary landfill.

(2) Legal or lobbying costs incurred in attempting to influence an administrative or legislative body.

SECTION 3.(f) Request for Reimbursement. – The request for reimbursement shall be submitted to the Department no later than 31 December 2007 with information necessary to document the reasonable and necessary costs eligible for reimbursement under this section. The Department shall review the request for reimbursement and notify the applicant and the Secretary of Revenue of the costs approved for reimbursement under this section. The Secretary of Revenue shall reimburse the approved costs from the proceeds of the tax imposed under G.S. 105-187.61 subject to availability of funds. Approved reimbursement costs shall be paid from the proceeds of the tax prior to crediting or distributing the proceeds of the tax as provided in G.S. 105-187.63.

SECTION 3.(g) Waiver and Covenant Not to Sue. – An applicant for a permit for a sanitary landfill who accepts reimbursement of costs under this section waives the right to seek reimbursement of those costs under any other provision of law. Prior to receiving any reimbursement under this section, the applicant shall execute a covenant not to sue the State of North Carolina or any political subdivision of the State for any costs described in subsections (d) and (e) of this section.

SECTION 4. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 5. Sections 1, 4, and 5 of this act become effective when this act becomes law. If Senate Bill 1492 becomes law, Section 3 of this act becomes effective when this act becomes law. Section 2 of this act becomes effective 1 July 2008.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:11 p.m. on the 31st day of August, 2007.

Session Law 2007-544 **Senate Bill 56**

AN ACT TO AMEND THE PENALTY REVIEW COMMITTEE PROCESS, EXPAND THE HEALTH CARE PERSONNEL REGISTRY AND AUTHORIZE THE MEDICAL CARE COMMISSION TO ADOPT RULES ALLOWING THE ISSUANCE OF RATED CERTIFICATES TO ADULT CARE HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-34(h) reads as rewritten:

"(h) The Secretary shall establish a penalty review committee within the Department, which shall meet as often as needed, but no less frequently than once each quarter of the year, ~~at least semiannually to review violations and penalties imposed by the Adult Care Licensure Section; provide a forum for residents, guardians or families of residents, local department of social services, and providers; and make recommendations to the Department for changes in policy, training, or rules as a result of its review and publish a report.~~ to review administrative penalties assessed pursuant to this section and pursuant to G.S. 131E-129 as follows:

(1) The Secretary shall administer the work of the Committee and provide public notice of its meetings via Web site, and provide direct notice to the following parties involved in the penalties the Committee will be reviewing:
   a. The licensed ~~provider;~~ provider, who upon receipt of the notice, shall post the notice of the scheduled Penalty Review Committee meeting in a conspicuous place available to residents, family members, and the public;
   b. The local department of social services that is responsible for oversight of the facility involved;
   c. The residents affected; and
   d. ~~The families or guardians of the residents affected.~~ Those individuals lawfully designated by the affected resident to make health care decisions for the resident.

(2) The Secretary shall ensure that the Nursing Home/Adult Care Home Penalty Review Committee established by this subsection is comprised of nine members. At least one member shall be appointed from each of the following categories:
   a. A licensed pharmacist;
   b. A registered nurse experienced in long term care;
   c. A representative of a nursing home;
   d. A representative of an adult care home; and
   e. Two public members. One shall be a "near" relative of a nursing home patient, chosen from a list prepared by the Office of State Long Term Care Ombudsman, Division of Aging, Department of Health and Human Services. One shall be a "near" relative of a rest home patient, chosen from a list prepared by the Office of State Long Term Care Ombudsman, Division of Aging, Department of Health and Human Services. For purposes of this

subdivision, a "near" relative is a spouse, sibling, parent, child, grandparent, or grandchild.

(3) Neither the pharmacist, nurse, nor public members appointed under this subsection nor any member of their immediate families shall be employed by or own any interest in a nursing home or adult care home.

(4) Repealed by Session Laws 2005-276, s. 10.40A(l), effective July 1, 2005.

~~(4a) The Department of Health and Human Services shall notify families or guardians of affected residents of the right to request a penalty review committee review of the Department's penalty decision before the decision becomes final. Within 60 days of receipt of a request from a family member or guardian for review of the Department's penalty decision, the penalty review committee shall meet to conduct the review and shall inform the family member or guardian of the results of the review.~~

(4b) Prior to serving on the Committee, each member shall complete a training program provided by the Department of Health and Human Services that covers standards of care and applicable State and federal laws and regulations governing facilities licensed under Chapter 131D and Chapter 131E of the General Statutes.

(5) Each member of the Committee shall serve a term of two years. The initial terms of the members shall commence on August 3, 1989. The Secretary shall fill all vacancies. Unexcused absences from three consecutive meetings constitute resignation from the Committee.

(6) The Committee shall be cochaired by:

a. One member of the Department outside of the Division of ~~Facility Services~~ Health Service Regulation; and

b. One member who is not affiliated with the Department."

SECTION 2. G.S. 131E-256 reads as rewritten:

"§ **131E-256. Health Care Personnel Registry.**

(a) The Department shall establish and maintain a health care personnel registry containing the names of all health care personnel working in health care facilities in North Carolina who have:

(1) Been subject to findings by the Department of:

a. Neglect or abuse of a resident in a health care facility or a person to whom home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

b. Misappropriation of the property of a resident in a health care facility, as defined in subsection (b) of this section including places where home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

c. Misappropriation of the property of a health care facility.

d. Diversion of drugs belonging to a health care ~~facility or to a patient or client.~~facility.

d1. Diversion of drugs belonging to a patient or client of the health care facility.

e. Fraud against a health care ~~facility or against a patient or client for whom the employee is providing services.~~facility.

e1. Fraud against a patient or client for whom the employee is providing services.

(2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The Health Care Personnel Registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(a1) The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section.

(b) For the purpose of this section, the following are considered to be "health care facilities":

(1) Adult Care Homes as defined in G.S. 131D-2.
(2) Hospitals as defined in G.S. 131E-76.
(3) Home Care Agencies as defined in G.S. 131E-136.
(4) Nursing Pools as defined by G.S. 131E-154.2.
(5) Hospices as defined by G.S. 131E-201.
(6) Nursing Facilities as defined by G.S. 131E-255.
(7) State-Operated Facilities as defined in G.S. 122C-3(14)f.
(8) Residential Facilities as defined in G.S. 122C-3(14)e.
(9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.
(10) Licensable Facilities as defined in G.S. 122C-3(14)b.
(11) Multiunit Assisted Housing with Services as defined in G.S. 131D-2.
(12) Community-Based Providers of Services for the Mentally Ill, the Developmentally Disabled, and Substance Abusers that are not required to be licensed under Article 2 of Chapter 122C of the General Statutes.
(13) Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program in accordance with G.S. 143B-181.1(a)11.

(c) For the purpose of this section, the term "health care personnel" means any unlicensed staff of a health care facility that has direct access to residents, clients, or their property. Direct access includes any health care facility unlicensed staff that during the course of employment has the opportunity for direct contact with an individual or an individual's property, when that individual is a resident or person to whom services are provided.~~the following are considered to be "health care personnel":~~

~~(1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions essential for the health and well-being of residents such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.~~
~~(2) A nurse aide.~~
~~(3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.~~

~~(4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.~~

(d) Health care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice of the Department's intent to place its findings about the person in the Health Care Personnel Registry.

(d1) Health care personnel who wish to contest the placement of information under subdivision (a)(2) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case hearing shall be filed within 30 days of the mailing of the written notice of the Department's intent to place information about the person in the Health Care Personnel Registry under subdivision (a)(2) of this section. Health care personnel who have filed a petition contesting the placement of information in the health care personnel registry under subdivision (a)(2) of this section are deemed to have challenged any findings made by the Department at the conclusion of its investigation.

(d2) Before hiring health care personnel into a health care facility or service, every employer at a health care facility shall access the Health Care Personnel Registry and shall note each incident of access in the appropriate business files.

(e) The Department shall provide an employer <u>at a health care facility</u> or potential employer <u>at a health care facility</u> of any person listed on the Health Care Personnel Registry information concerning the nature of the finding or allegation and the status of the investigation.

(f) No person shall be liable for providing any information for the health care personnel registry if the information is provided in good faith. Neither an employer, potential employer, nor the Department shall be liable for using any information from the health care personnel registry if the information is used in good faith for the purpose of screening prospective applicants for employment or reviewing the employment status of an employee.

(g) Health care facilities shall ensure that the Department is notified of all allegations against health care personnel, including injuries of unknown source, which appear to be related to any act listed in subdivision (a)(1) of this section. Facilities must have evidence that all alleged acts are investigated and must make every effort to protect residents from harm while the investigation is in progress. The results of all investigations must be reported to the Department within five working days of the initial notification to the Department.

(h) The North Carolina Medical Care Commission shall adopt, amend, and repeal all rules necessary for the implementation of this section.

(i) In the case of a finding of neglect under subdivision (1) of subsection (a) of this section, the Department shall establish a procedure to permit health care personnel to petition the Department to have his or her name removed from the registry upon a determination that:

(1) The employment and personal history of the nurse aid does not reflect a pattern of abusive behavior or neglect;

(2) The neglect involved in the original finding was a singular occurrence; and

(3) The petition for removal is submitted after the expiration of the one-year period which began on the date the petitioner's name was added to the registry under subdivision (1) of subsection (a) of this section."

SECTION 3.(a) G.S. 131D-4.5 reads as rewritten:

"§ **131D-4.5. Rules adopted by Medical Care Commission.**

The Medical Care Commission shall adopt rules as follows:

(1) Establishing minimum medication administration standards for adult care homes. The rules shall include the minimum staffing and training requirements for medication aides and standards for professional supervision of adult care homes' medication controls. The requirements shall be designed to reduce the medication error rate in adult care homes to an acceptable level. The requirements shall include, but need not be limited to, all of the following:
   a. Training for medication aides, including periodic refresher training.
   b. Standards for management of complex medication regimens.
   c. Oversight by licensed professionals.
   d. Measures to ensure proper storage of medication.

(2) Establishing training requirements for adult care home staff in behavioral interventions. The training shall include appropriate responses to behavioral problems posed by adult care residents. The training shall emphasize safety and humane care and shall specifically include alternatives to the use of restraints.

(3) Establishing minimum training and education qualifications for supervisors in adult care homes and specifying the safety responsibilities of supervisors.

(4) Specifying the qualifications of staff who shall be on duty in adult care homes during various portions of the day in order to assure safe and quality care for the residents. The rules shall take into account varied resident needs and population mixes.

(5) Implementing the due process and appeal rights for discharge and transfer of residents in adult care homes afforded by G.S. 131D-21. The rules shall offer at least the same protections to residents as State and federal rules and regulations governing the transfer or discharge of residents from nursing homes.

(6) Establishing procedures for determining the compliance history of adult care homes' principals and affiliates. The rules shall include criteria for refusing to license facilities which have a history of, or have principals or affiliates with a history of, noncompliance with State law, or disregard for the health, safety, and welfare of residents.

(7) For the licensure of special care units in accordance with G.S. 131D-4.6, and for disclosures required to be made under G.S. 131D-8.

(8) For time limited provisional licenses and for granting extensions for provisional licenses.

(9) For the issuance of certificates to adult care homes as authorized under G.S. 131D-10."

SECTION 3.(b) Article 1 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"**§ 131D-10. Adult care home rated certificates.**

(a) Rules adopted by the North Carolina Medical Care Commission for issuance of certificates to adult care homes shall contain a rating based, at a minimum, on the following:

(1) Inspections and substantiated complaint investigations conducted by the Department to determine compliance with licensing statutes and rules. Specific areas to be reviewed include:

a. Admission and discharge procedures.
b. Medication management.
c. Physical plant.
d. Resident care and services, including food services, resident activities programs, and safety measures.
e. Residents' rights.
f. Sanitation grade.
g. Special Care Units.
h. Use of physical restraints and alternatives.

(b) The initial ratings awarded to a facility pursuant to the rules adopted under this section shall be based on inspections, penalties imposed, and investigations of substantiated complaints that revealed noncompliance with statutes and rules, that occurred on or after the act becomes law.

(c) Type A penalties shall affect the rating for 24 months from the date the penalty is assessed. Type B penalties shall affect the rating for 12 months from the date the penalty is assessed.

(d) Adult care homes shall display the rating certificate in a location visible to the public. Certificates shall include the Web site address for the Department of Health and Human Services, Division of Health Service Regulation, which can be accessed for specific information regarding the basis of the facility rating. For access by the public on request, adult care homes shall also maintain on-site a copy of information provided by the Department of Health and Human Services, Division of Health Service Regulation, regarding the basis of the facility rating. In addition to information on the basis of the rating, the Department of Health and Human Services, Division of Health Service Regulation, shall make information available via its Web site and in the materials available on-site at the facility regarding quality improvement efforts undertaken by the facility including:

(1) Participation in any quality improvement programs approved by the Department.
(2) The facility's attainment of the North Carolina New Organizational Vision Award special licensure designation authorized in Article 5, Chapter 131E of the General Statutes."

SECTION 3.(c) The Department of Health and Human Services shall provide a copy of emergency, temporary, and permanent rules adopted pursuant to this section to the North Carolina Study Commission on Aging at the same time the Department submits the adopted rules to the Rules Review Commission for its review under Chapter 150B of the General Statutes.

SECTION 3.(d) The Department of Health and Human Services, Divisions of Health Service Regulation, Aging and Adult Services, and Medical Assistance shall study the structure and cost of a system to reward adult care homes which receive high

ratings. The Department shall report findings and recommendations on this study to the North Carolina Study Commission on Aging not later than March 1, 2008.

SECTION 3.(e) It is the intent of the General Assembly to provide funding for technical assistance to adult care homes for the 2008-2009 fiscal year.

SECTION 3.(f) The Department of Health and Human Services, Division of Health Service Regulation and Division of Aging and Adult Services, shall study expanding the rated certificate system to other facilities and services licensed and certified by the Department. The Department shall report to the North Carolina Study Commission on Aging on the expansion of the rating system by October 1, 2009.

SECTION 3.(g) The Department of Health and Human Services, Division of Health Service Regulation, shall report on the implementation of the rated certificate system. The Department shall make an interim report to the North Carolina Study Commission on Aging not later than October 1, 2009, and a final report to the Commission not later than October 1, 2010.

SECTION 4. Section 1 of this act becomes effective October 1, 2007. Section 2 becomes effective January 1, 2008. Certificates authorized under Section 3 shall be issued beginning January 1, 2009. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of July, 2007.

Became law upon approval of the Governor at 10:12 p.m. on the 31st day of August, 2007.

Session Law 2007-545 **Senate Bill 514**

AN ACT TO PROHIBIT BUSINESSES THAT SUPPLY PERISHABLE PRODUCTS FROM MISREPRESENTING THE GEOGRAPHICAL LOCATIONS OF THEIR BUSINESSES IN TELEPHONE DIRECTORIES, DIRECTORY ASSISTANCE DATABASES, ON THE INTERNET, AND IN PRINT ADVERTISEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

"**§ 75-42. Deceptive representation of geographical location in telephone directory, print advertisement, or on the Internet.**

(a) A person who is in the business of supplying a perishable product shall not misrepresent the geographical location of the business in the listing of the business in a telephone directory, other directory assistance database, or on the Internet. A person misrepresents the geographical location of the business under this subsection if the name of the business indicates that the business is located in a geographical area and all of the following apply:

(1) The business is not located within the geographical area indicated.

(2) The listing fails to identify the municipality and state of the business's geographical location.

(3) A telephone call to the local telephone number listed in the telephone directory, directory assistance database, or on the Internet routinely is forwarded or transferred to a location that is outside the calling area covered by the telephone directory or directory assistance database in

which the number is listed, or outside the local calling area for the local telephone number posted on the Internet.

(b) A person who is in the business of supplying a perishable product shall not misrepresent the geographical location of the business in print advertisement. A person misrepresents the geographical location of the business under this subsection if a fictitious business name or an assumed business name is listed in print advertisement and all of the following apply:

(1) The name misrepresents the geographic location of the supplier.

(2) A telephone call to the local telephone number listed on the print advertisement routinely is forwarded or transferred to a location that is outside the calling area in which the number is listed.

(c) A person who misrepresents the geographical location of the business under subsection (a) or subsection (b) of this section is not in violation of this section if a conspicuous notice in the listing or in the print advertisement states the municipality and state in which the business is located and identifies this as the location of the business.

(d) For purposes of this section, a newspaper publisher, magazine or other publication, telephone directory or directory assistance service, its officer or agent, the owner or operator of a radio or television station, or any other owner or operator of a media primarily devoted to listing phone numbers or to advertising who publishes, broadcasts, or otherwise disseminates a directory, a database, or print advertisement in good faith without knowledge of its false, deceptive, or misleading character is immune from liability under this section unless the directory service, the database service, or the advertiser is the same person as the person, firm, or corporation that has committed the act prohibited by this section.

(e) A violation of this section is an unfair trade practice under G.S. 75-1.1."

SECTION 2. This act becomes effective October 1, 2007, and applies to any telephone directory, directory assistance database, Internet Web site, or print advertisement provided, published, or posted on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 10:13 p.m. on the 31st day of August, 2007.

Session Law 2007-546 **Senate Bill 668**

AN ACT TO PROMOTE THE CONSERVATION OF ENERGY AND WATER USE IN STATE, UNIVERSITY, AND COMMUNITY COLLEGE BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Findings and Legislative Intent. – The General Assembly finds that public buildings can be built and renovated using sustainable, energy efficient methods that save money, reduce negative environmental impacts, improve employee and student performance, and make employees and students more productive. The main objectives of sustainable, energy efficient design are to avoid resource depletion of energy, water, and raw materials; prevent environmental degradation caused by facilities and infrastructure throughout their life cycle; and create buildings that are livable, comfortable, safe, and productive. It is the intent of the General Assembly that State-owned buildings, The University of North Carolina, and the North Carolina Community College System be improved by establishing specific performance criteria

and goals for sustainable, energy efficient public buildings based upon recognized, consensus standards with scientifically proven basis and demonstrated performance. The General Assembly also intends that State agencies, The University of North Carolina, and the North Carolina Community College System shall perform after-construction measurement and verification of costs and savings to confirm that the performance goals of this section are met and ensure that economic and environmental goals are achieved. Also, it is the intent of the General Assembly to establish a priority to use North Carolina-based resources, building materials, products, industries, manufacturers, and businesses to provide economic development to North Carolina and to meet the objectives of this section.

SECTION 1.(b) Definitions. – As used in this section, the following definitions apply:

(1) "ASHRAE" means the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.

(2) "Department" means the Department of Administration.

(3) "Institutions of higher education" means the constituent institutions of The University of North Carolina, the regional institutions as defined in G.S. 115D-2, and the community colleges as defined in G.S. 115D-2.

(4) "Major facility" means a construction project larger than 20,000 gross square feet of occupied or conditioned space, as defined in the North Carolina State Building Code, or a building renovation project when the cost is greater than fifty percent (50%) of the insurance value and the project is larger than 20,000 gross square feet of occupied or conditioned space, as defined in the North Carolina State Building Code, whose construction is funded in whole or in part by the State of North Carolina. "Major facility" does not include the following: transmitter buildings or pumping stations.

(5) "Public agency" means every State office, officer, board, department, and commission and institutions of higher education.

(6) "Sustainable, energy efficient public buildings" means public buildings that, by complying with this section, are the most economical energy and water efficiency for that building type.

SECTION 1.(c) Standard for Major Facilities; Reports by Agencies and the Department. – The Sustainable Energy Efficient Buildings Program is established in the Department. Under this program:

(1) All major facility projects of public agencies shall be designed, constructed, and certified to at least a thirty percent (30%) greater energy efficiency than the standard under ASHRAE 90.1-2004. For major renovations a twenty percent (20%) greater energy efficiency standard than ASHRAE 90.1-2004 shall be used. In addition, for new construction, the water systems shall be designed and constructed to use a minimum of twenty percent (20%) less potable water than the indoor water use baseline calculated for the building after meeting the fixture performance requirements required by the 2006 North Carolina Plumbing Code. Outdoor potable water or harvested groundwater consumption shall be reduced by a minimum of fifty percent (50%) over that consumed by conventional means through water use efficient landscape materials and irrigation strategies, including water reuse and

recycling. This section applies to major facility projects that have not entered the schematic design phase prior to the effective date of this section.

(2) For the purposes of this section, any exceptions or special standards for specific types of buildings or building facilities found in ASHRAE 90.1-2004 are included in the ASHRAE 90.1-2004 standard under subdivision (1) of this subsection.

(3) Commissioning for Major Facilities. – Building and/or system commissioning practices, tailored to the size and complexity of the building and its system components, shall be employed in order to verify performance of building components and systems and help ensure that design requirements are met upon completion of construction.

(4) Measurement and Verification for Major Facilities.

a. Building level owner's meters for electricity, natural gas, fuel oil, and water in accordance with United States Department of Energy (DOE) guidelines issued under Section 103 of the Energy Policy Act of 2005 shall be installed. The public agency and the designers shall compare metered data from the first 12 months of building operation with the energy design target(s) and report that performance to the State Construction Office.

b. If the average building energy or water consumption over the one-year period following the date of beneficial occupancy is eighty-five percent (85%) or less than the performance goals established by these standards, the designer, owner agency, contractor, Contract Manager at Risk, and commissioning agent shall investigate, determine the cause of the shortfall, and recommend corrections or modifications to meet performance goals.

(5) The Department shall consolidate the reports required in this subsection and any report from the State Building Commission under G.S. 143-135.39 into one report and report to the Chairs of the General Government Appropriations Subcommittees of both the Senate and the House of Representatives, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations by November 1 of each year beginning in 2008. In its report, the Department shall also report on the implementation of this section including reasons why the standards required in subdivision (1) of this subsection were not used for the reason that it would not be practicable in accordance with G.S. 143-135.39. The Department shall make recommendations regarding the ongoing implementation of this section, including a discussion of incentives and disincentives related to implementing this section.

SECTION 1.(d) Guidelines for Administering the Sustainable Energy Efficient Buildings Program. –

(1) The Department, in consultation with affected public agencies, shall develop and issue policies and technical guidelines to implement this section for public agencies. The purpose of these policies and guidelines is to define procedures and methods for complying with the

criteria and performance goals for major facility projects defined by G.S. 143-135.37.

(2) As provided in the request for proposals for construction services, the public agency may hold a preproposal conference for prospective bidders to discuss compliance with, and achievement of, standards identified in this section for prospective respondents.

(3) The Department shall create a sustainable, energy efficient buildings advisory committee comprised of representatives from the design and construction industry involved in public works contracting, personnel from the affected public agencies responsible for overseeing public works projects, and others at the Department's discretion to provide advice on implementing this section. Among other duties, the advisory committee shall make recommendations regarding an education and training process for stakeholders and an ongoing evaluation or feedback process to help the Department implement this section. The advisory committee may also make recommendations to the Department regarding water efficiency requirements and energy efficiency requirements.

(4) The Department shall review the advisory committee's recommendations under subdivision (3) of this subsection regarding education and training. The Department shall develop one level of education and training requirements for the chief financial officer of each public agency that is appropriate for the chief financial officer's level of involvement in projects under this section. The Department shall develop, for each public agency that is responsible for the payment of the agency's utilities, another higher level of education and training requirements for the facility manager of the agency that is appropriate for the facility manager's level of involvement in projects under this section. This level of education and training shall also be a requirement for the capital project coordinator of an agency involved in a project under this section. The Department shall develop a highest level of education and training requirements for the architects and mechanical design engineers that are involved in the design of projects under this section that is appropriate for their level of involvement in these projects.

(5) The Department may adopt rules to implement this section. The Department may adopt architectural or engineering standards as needed to implement this section.

SECTION 1.(e) Use of Other Standard when ASHRAE Standard Not Practicable. – When the Department, public agency, and the design team determine the ASHRAE 90.1-2004 standard to be not practicable for a major facility project, then it must be determined by the State Building Commission if the standard is not practicable for that major facility project. If the State Building Commission determines the standard is not practicable for that major facility project, the State Building Commission shall determine which standard is practicable for the design and construction for that major facility project. If the ASHRAE 90.1-2004 standard is not followed for that project, the public agency shall report this information and the reasons to the Department in its report under G.S. 143-135.37, and the State Building Commission shall report this information and the reasons to the Department.

SECTION 1.(f) Monitor Development of Construction and Energy Efficiency Standards. – The Department shall monitor the development of construction or other energy efficiency standards to determine whether there is a standard that the Department determines would better fulfill the intent of the Sustainable Energy Efficient Buildings Program to achieve energy efficiency and increased energy savings in major facility projects in buildings of the State, The University of North Carolina, and the North Carolina Community College System than the ASHRAE 90.1-2004 standard and, if so, whether this section should be amended to provide for the use of this standard rather than the ASHRAE 90.1-2004 standard. Specifically, the Department shall monitor the development of improved energy efficiency standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, the ASHRAE standards, and monitor whether the State Building Code Council adopts improved ASHRAE standards or any other energy efficiency standards for inclusion in the State Building Code that result in greater energy efficiency and increased energy savings in major facility projects in State, university system, and community college buildings. No later than January 1, 2009, and again January 1, 2010, the Department shall report to the Chairs of the General Government Appropriations Subcommittees of both the Senate and the House of Representatives, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations on the results of its monitoring under this subsection, including any recommendations for administrative or legislative proposals.

SECTION 1.(g) Performance Review. – The Department shall conduct a performance review of the Sustainable Energy Efficient Buildings Program. The performance review shall include at least all of the following:

(1) Identification of the costs of implementing energy and water efficient building standards in the design and construction of major facility projects subject to this act.

(2) Identification of operating savings attributable to the implementation of energy and water efficient building standards, including, but not limited to, savings in energy, water, utility, and maintenance costs.

(3) Identification of any impacts on employee productivity from using energy and water efficient building standards.

(4) Evaluation of the effectiveness of the energy and water efficient building standards established by this act.

(5) Any recommendations for any changes in those standards that may be supported by the Department's findings.

SECTION 1.(h) Report on Performance Review. – No later than December 1, 2010, the Department shall make a preliminary report of its findings under its performance review under subsection (g) of this section and its recommendations and, on or before December 1, 2011, a final report to the Chairs of the General Government Appropriations Subcommittees of both the Senate and the House of Representatives, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations.

SECTION 1.(i) Purchase of Buildings Constructed or Renovated to Certain Energy and Water Efficiency Standards. –

(1) A State agency shall not acquire by purchase any building unless the building was designed and constructed to at least the same standard for energy and water efficiency that the design and construction of a comparable building was required to meet under applicable State law

or local ordinance at the time the building under consideration for purchase was constructed.

(2) A State agency shall not acquire by purchase any building that had a major renovation unless the renovation was performed to at least the same standard for energy and water efficiency that the design and construction of a major renovation of a comparable building was required to meet under applicable State law or local ordinance at the time the building under consideration for purchase was renovated.

(3) This subsection does not apply to the purchase of a building having historic, architectural, or cultural significance under G.S. 143-23.1. This subsection does not apply to buildings that are acquired by devise or bequest.

SECTION 2.1.(a) The Department of Administration shall administer and oversee the implementation of a program whereby all of the following energy conservation measures, as defined in G.S. 143-64.17, shall be fully implemented no later than December 31, 2009, in each building owned by the State, The University of North Carolina, or the North Carolina Community College System:

(1) Lighting Systems. – The installation of exit signs that employ light-emitting diode (LED) technology; the replacement of incandescent light bulbs with compact fluorescent light bulbs; and where appropriate, as determined by the Department of Administration, the installation of occupancy sensors or optical sensors.

(2) Water Systems. – The installation of aerators in sink faucets that reduce the flow of water to a rate of no more than five-tenths gallons per minute (0.5 g.p.m.); the installation of shower heads that reduce the flow of water to a rate of no more than one and five-tenths gallons per minute (1.5 g.p.m.); where appropriate, as determined by the Department of Administration, the resetting of hot water heaters to a water temperature of 120 degrees; the training of staff to monitor the use of irrigation systems and to base the use of the system on the moisture content of the soil, and either the elimination of potable water for irrigation or the reduction of water consumption in the building by twenty percent (20%) based on water consumption for the 2002-2003 fiscal year.

(3) Heating, Ventilation, and Air-Conditioning (HVAC) Systems. – For HVAC equipment that is subject to replacement, the review of the specifications for the replacement HVAC equipment to ensure that it is not oversized; and, for building automation systems that are programmable, the training to ensure that these systems are properly programmed.

(4) Minor Equipment. – For minor motorized equipment that is subject to replacement, the replacement of minor equipment with equipment that has premium efficiency motors. For purposes of this subdivision, 'premium efficiency motor' means a motor that meets or exceeds a set of minimum full-load efficiency standards developed by the National Electrical Manufacturers Association (NEMA).

(5) Other Energy Conservation Measures. – Disconnect lamps in drink vending machines; use power save feature on computers, monitors,

copiers, fax machines, and other office equipment; and when purchasing office equipment or appliances, purchase only Energy Star office equipment and appliances.

SECTION 2.1.(b) Consistent with G.S. 150B-2(8a)h., the Department of Administration shall develop or revise its architectural and engineering standards to provide assistance in determining which energy conservation measures are best suited to the unique characteristics of each building and in determining the specifications for the energy conservation measures under this section. The development or revision of the architectural and engineering standards shall be completed by February 1, 2008.

SECTION 2.1.(c) Prior to implementing this section and no later than February 1, 2008, the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission on its plan to implement this section.

SECTION 2.1.(d) In order to protect the integrity of historic buildings, this section does not apply to the extent it would require the implementation of measures to conserve energy, water, or other utility use that conflict with respect to any property eligible for, nominated to, or entered on the National Register of Historic Places, pursuant to the National Historic Preservation Act of 1966, P.L. 89-665; any historic building located within an historic district as provided in Chapter 160A or 153A of the General Statutes; any historic building listed, owned, or under the jurisdiction of an historic properties commission as provided in Chapter 160A or 153A; or any historic property owned by the State or assisted by the State.

SECTION 3.1.(a) G.S. 143-64.12 reads as rewritten:

"§ **143-64.12. Authority and duties of ~~State agencies.~~the Department; State agencies and State institutions of higher learning.**

(a) The Department of Administration through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2003-2004 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs.

(a1) ~~The General Assembly authorizes and directs that~~ State agencies and State institutions of higher learning shall carry out the construction and renovation of ~~State facilities, under their jurisdiction~~ facilities in such a manner as to further the policy ~~declared herein, ensuring~~ set forth under this section and to ensure the use of life-cycle cost analyses and practices to conserve energy, water, and other utilities.

(b) The Department of Administration shall develop and implement policies, procedures, and standards to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration. The Department of Administration shall adopt and implement Building Energy Design Guidelines. These guidelines shall include energy-use goals and standards, economic assumptions for life-cycle cost

analysis, and other criteria on building systems and technologies. The Department of Administration shall modify the design criteria for construction and renovation of facilities of State buildings and State institutions of higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to G.S. 143-64.15.

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. ~~State departments, institutions, or agencies~~ Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for ~~State facilities,~~ any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. As part of the Facilities Condition and Assessment Program under this section, the Department of Administration shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning.

~~The Department of Administration shall develop a comprehensive program to manage energy, water, and other utility use for State government. Each State agency shall develop and implement a management plan that is consistent with the State's comprehensive program to manage energy, water, and other utility use.~~

(c) through (g) Repealed by Session Laws 1993, c. 334, s. 4.

(h) When conducting an energy audit under this section, the Department of Administration shall identify and recommend any facility of a State agency or State institution of higher learning as suitable for building commissioning to reduce energy consumption within the facility or as suitable for installing an energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this Article.

(i) Consistent with G.S. 150B-2(8a)h., the Department of Administration may adopt architectural and engineering standards to implement this section."

SECTION 3.1.(b) G.S. 143-64.10 reads as rewritten:

"§ **143-64.10. Findings; policy.**

(a) The General Assembly finds all of the following:

(1) That the State shall take a leadership role in aggressively undertaking the conservation of energy, water, and other utilities in North Carolina.

(2) That State facilities and facilities of State institutions of higher learning have a significant impact on the State's consumption of energy, water, and other utilities.

(3) That practices to conserve energy, water, and other utilities that are adopted for the design, construction, operation, maintenance, and renovation of these facilities and for the purchase, operation, and maintenance of equipment for these facilities will have a beneficial effect on the State's overall supply of energy, water, and other utilities.

(4) That the cost of the energy, water, and other utilities consumed by these facilities and the equipment for these facilities over the life of the facilities shall be considered, in addition to the initial cost.

(5) That the cost of energy, water, and other utilities is significant and facility designs shall take into consideration the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of the facility, of the energy, water, and other utilities consumed,

and of operation and maintenance of the facility as it affects the consumption of energy, water, or other utilities.

(6) That State government shall undertake a program to reduce the use of energy, water, and other utilities in State facilities and facilities of the State institutions of higher learning and equipment in those facilities in order to provide its citizens with an example of energy-use, water-use, and utility-use efficiency.

(b) It is the policy of the State of North Carolina to ensure that practices to conserve energy, water, and other utilities are employed in the design, construction, operation, maintenance, and renovation of State facilities and facilities of the State institutions of higher learning and in the purchase, operation, and maintenance of equipment for ~~State~~ these facilities."

SECTION 3.1.(c) G.S. 143-64.11 is amended by adding a new subdivision to read:

"(10) 'State institution of higher learning' means any constituent institution of The University of North Carolina."

SECTION 3.2. The Department of Administration shall establish and train an additional team to examine existing facilities of State agencies and State institutions of higher learning to identify and recommend energy conservation maintenance and operating procedures designed to reduce energy consumption and to conduct energy audits and identify a facility as suitable for building commissioning or for installing an energy savings measure under the Facilities Condition Assessment Program (FCAP) under G.S. 143-64.12, as amended by Section 3.1 of this act.

SECTION 4.1. G.S. 143-64.15(a) reads as rewritten:

"(a) A life-cycle cost analysis shall be commenced at the schematic design phase of the construction or renovation project, shall be updated or amended as needed at the design development phase, and shall be updated or amended again as needed at the construction document phase. A life-cycle cost analysis shall include, but not be limited to, all of the following elements:

(1) The coordination, orientation, and positioning of the facility on its physical ~~site;~~site.

(2) The amount and type of fenestration and the potential for daylighting employed in the ~~facility;~~facility.

(3) Thermal characteristics of materials and the amount of insulation incorporated into the facility ~~design;~~design.

(4) The variable occupancy and operating conditions of the facility, including illumination ~~levels; and~~levels.

(5) Architectural features that affect the consumption of energy, water, and other utilities."

SECTION 4.2. G.S. 143-64.15A reads as rewritten:

"§ **143-64.15A. Certification of life-cycle cost analysis.**

~~All State agencies under the jurisdiction of the Department of Administration~~ Each State agency and each State institution of higher learning performing a life-cycle cost analysis for the purpose of constructing or renovating any ~~State~~ facility shall, prior to selecting a design option or advertising for bids for construction, submit the life-cycle cost analysis to the Department for ~~certification.~~certification at the schematic design phase and again when it is updated or amended as needed in accordance with G.S. 143-64.15. The Department shall review the material submitted by the State ~~agency,~~agency or State institution of higher learning, reserve the right to require

~~agencies~~ an agency or institution to complete additional analysis to comply with certification, perform any additional analysis, as necessary, to comply with G.S. 143-341(11), and require that all construction or renovation conducted by the State agency or State institution of higher learning comply with the certification issued by the Department."

SECTION 5. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. Every public agency, as defined in subsection (c) of Section 1 of this act, to which this act applies may implement the provisions of this act from funds otherwise appropriated or available to that public agency.

SECTION 6. Section 1 of this act becomes effective 1 October 2008 and expires 1 October 2010. All other sections of this act become effective when this act becomes law. Section 1 of this act applies to contracts for the design of major facility projects, as defined in subsection (c) of Section 1 of this act, that are entered into on or after 1 October 2008. Section 4.1 of this act applies to life-cycle cost analyses commenced, and to contracts entered into for life-cycle cost analyses, on or after 1 December 2007.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:19 p.m. on the 31st day of August, 2007.

Session Law 2007-547 **Senate Bill 1079**

AN ACT PROVIDING PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-43.11 reads as rewritten:

"§ **14-43.11. Human trafficking.**

(a) A person commits the offense of human trafficking when that person knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude.

(b) A person who violates this section is guilty of a Class F felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

(d) A person who is not a legal resident of North Carolina, and would consequently be ineligible for State public benefits or services, shall be eligible for the public benefits and services of any State agency if the person is otherwise eligible for the public benefit and is a victim of an offense charged under this section. Eligibility for public benefits and services shall terminate at such time as the victim's eligibility to remain in the United States is terminated under federal law."

SECTION 2. G.S. 15A-830(7) reads as rewritten:

"(7) Victim. – A person against whom there is probable cause to believe one of the following crimes was committed:

a. A Class A, B1, B2, C, D, or E felony.

b. A Class F felony if it is a violation of one of the following: G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3); 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; ~~14-43.6;~~ 14-43.3; 14-43.11; 14-190.17; 14-190.19; 14-202.1; 14-277.3; 14-288.9; or 20-138.5.

…."

SECTION 3. G.S. 15A-832 is amended by adding a new subsection to read:

"§ **15A-832. Responsibilities of the district attorney's office.**

…

(h) When a person is a victim of a human trafficking offense and is entitled to benefits and services pursuant to G.S. 14-43.11(d), the district attorney's office shall so notify the Office of the Attorney General and Legal Aid of North Carolina, Inc., in addition to providing services under this Article."

SECTION 4. G.S. 15C-1 reads as rewritten:

"§ **15C-1. Purpose.**

The purpose of this Chapter is to enable the State and the agencies of North Carolina to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual offense, ~~or stalking;~~ stalking, or human trafficking; to enable interagency cooperation in providing address confidentiality for victims of domestic violence, sexual offense, ~~or stalking;~~ stalking, or human trafficking; and to enable the State and its agencies to accept a program participant's use of an address designated by the Office of the Attorney General as a substitute address."

SECTION 5. G.S. 15C-2 reads as rewritten:

"§ **15C-2. Definitions.**

The following definitions apply in this Chapter:

…

(4) Application assistant. – An employee of an agency or nonprofit organization who provides counseling, referral, shelter, or other specialized services to victims of domestic violence, sexual offense, ~~or stalking~~ stalking, or human trafficking and who has been designated by the Attorney General to assist individuals with applications to participate in the Address Confidentiality Program.

…

(10) Victim of domestic violence. – An individual against whom domestic violence, as described in G.S. 50B-1, has been committed.

(11) Victim of a sexual offense. – An individual against whom a sexual offense, as described in Article 7A of Chapter 14 of the General Statutes, has been committed.

(12) Victim of stalking. – An individual against whom stalking, as described in G.S. 14-277.3, has been committed.

(13) Victim of human trafficking. – An individual against whom human trafficking, as described in G.S. 14-43.11, has been committed."

SECTION 6. G. S. 15C-3 reads as rewritten:

"§ **15C-3. Address Confidentiality Program.**

The General Assembly establishes the Address Confidentiality Program in the Office of the Attorney General to protect the confidentiality of the address of a relocated victim of domestic violence, sexual offense, ~~or stalking~~ stalking, or human trafficking to prevent the victim's assailants or potential assailants from finding the victim through

public records. Under this Program, the Attorney General shall designate a substitute address for a program participant and act as the agent of the program participant for purposes of service of process and receiving and forwarding first-class mail or certified or registered mail. The Attorney General shall not be required to forward any mail other than first-class mail or certified or registered mail to the program participant. The Attorney General shall not be required to track or otherwise maintain records of any mail received on behalf of a program participant unless the mail is certified or registered mail."

SECTION 7. G.S. 15C-4(c) reads as rewritten:

"(c) The application shall contain all of the following:

(1) A statement by the applicant that the applicant is a victim of domestic violence, sexual offense, ~~or stalking~~ stalking, or human trafficking and that the applicant fears for the applicant's safety or the safety of the applicant's child.

(2) Evidence that the applicant is a victim of domestic violence, sexual offense, ~~or stalking.~~ stalking, or human trafficking. This evidence may include any of the following:

a. Law enforcement, court, or other federal or state agency records or files.

b. Documentation from a domestic violence program if the applicant is alleged to be a victim of domestic violence.

c. Documentation from a religious, medical, or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual offense, or stalking.

d. Documentation submitted to support a victim of human trafficking's application for federal assistance or benefits under federal human trafficking laws.

…."

SECTION 8. G.S. 15C-10 reads as rewritten:

"§ **15C-10. Assistance for program applicants.**

(a) The Attorney General shall designate agencies of North Carolina and nonprofit organizations that provide counseling and shelter services to victims of domestic violence, sexual offense, ~~or stalking~~ stalking, or human trafficking to assist individuals applying to be program participants. Any assistance and counseling rendered by the Office of the Attorney General or its designee to applicants shall in no way be construed as legal advice.

(b) The Attorney General, upon receiving notification pursuant to G.S. 15A-832(h), shall, within 96 hours of receiving the notification, issue the victim a letter of certification of eligibility or other relevant document entitling the person to have access to State benefits and services.

SECTION 9. G.S. 7A-474.2(1) reads as rewritten:

"(1) "Eligible client" means a resident of North Carolina financially eligible for representation under the Legal Services Corporation Act, regulations, and interpretations adopted thereunder (45 C.F.R. § 1611, and subsequent ~~revisions).~~revisions), or a person entitled to State benefits or services pursuant to G.S. 14-43.11(d)."

SECTION 10. G.S. 7A-474.3(b) reads as rewritten:

"(b) Eligible Cases. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

(1) Family violence or spouse abuse;
(2) Assistance for the disabled in obtaining federal Social Security benefits;
(2a) Assistance for eligible clients in obtaining benefits or assistance under any federal law or program providing benefits or assistance for human trafficking victims.

…."

SECTION 11. The North Carolina Justice Academy shall establish protocols suitable for the training of State and local law enforcement officers. The protocols shall be made available to all State and local law enforcement agencies so that the agencies may conduct training on:

(1) The phenomenon of human trafficking and State and federal laws on human trafficking.
(2) How to recognize and identify victims of one or more of the practices set forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13.
(3) Methods for protecting trafficking victims and possible trafficking victims, and advising them of their rights.
(4) Procedures and techniques for handling specialized needs of victims who may face cultural, language, and other barriers that impede ability to request and obtain available services.

Nothing in this section shall be construed to require the North Carolina Justice Academy to conduct training of State or local law enforcement officers.

SECTION 12. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:20 p.m. on the 31st day of August, 2007.

Session Law 2007-548 **Senate Bill 1466**

AN ACT TO MAKE CHANGES RELATING TO HEALTH AND SAFETY TO THE MIGRANT HOUSING ACT OF NORTH CAROLINA AND TO DIRECT THE NORTH CAROLINA HOUSING FINANCE AGENCY TO STUDY THE DEVELOPMENT OF A LOW-INTEREST LOAN PROGRAM FOR AGRICULTURAL EMPLOYERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 95-223 is amended by adding a new subdivision to read:

"§ **95-223. Definitions.**

As used in this Article, unless the context requires otherwise:

...

(3a) "Director" means the Director of the Agricultural Safety and Health Bureau, who is the agent designated by the Commissioner to assist in the administration of this Article."

SECTION 2. G.S. 95-224 reads as rewritten:

"§ **95-224. ~~Scope.~~Scope; powers and duties.**

(a) The provisions of this Article shall apply to all operators and migrants except:

(1) Any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public; and who provides housing to migrants of the same character and on the same or comparable terms and conditions as those provided to the general public; or

(2) A housing unit owned by one or more of the occupants and occupied solely by a family unit.

(b) The Commissioner shall have the following powers and duties under this Article:

(1) To delegate to the Director the powers, duties, and responsibilities necessary to ensure safe and healthy migrant housing conditions.

(2) To supervise the Director.

(3) To issue preoccupancy certificates to certify that housing for migrant workers has been found to be in compliance with this Article.

(4) To conduct postoccupancy inspections of migrant housing in accordance with the provisions of G.S. 95-226(g)."

SECTION 3. G.S. 95-225 is amended by adding a new subsection to read:

"(h) Each migrant shall be provided with a bed that shall include a mattress in good repair with a clean cover. The Department of Labor of North Carolina inspector shall determine the condition of the mattress and cover during the preoccupancy inspection. If the mattress or cover is damaged beyond normal wear and tear during the migrant's occupancy of the housing, the operator may charge the migrant the reasonable cost of replacing the mattress or cover."

SECTION 3.1. G.S. 95-226(a) reads as rewritten:

"(a) ~~Every~~Except as provided in subsection (f) of this section, every operator shall request a preoccupancy inspection at least 45 days prior to the anticipated date of occupancy by applying directly to the Department of Labor of North Carolina or to the local health department. Upon receipt of an application by the Department of Labor of North Carolina, the Department of Labor of North Carolina shall immediately notify, in writing, the appropriate local health department; and the local health department shall inspect the migrant housing for compliance with G.S. 95-225(c) and (d). Upon receipt of the application by the local health department, the local health department shall immediately notify, in writing, the Department of Labor of North Carolina and shall inspect the migrant housing for compliance with G.S. 95-225(c) and (d).

The local health department shall forward the results of its inspection to the Department of Labor of North Carolina and to the operator. The Department of Labor of North Carolina shall inspect the migrant housing and certify to the operator the results of the inspection.

At the time the Department of Labor of North Carolina conducts a preoccupancy inspection, the Department of Labor of North Carolina shall provide the operator with a copy of the guide for employers on compliance with the Immigration and Nationality Act, 8 U.S.C. § 1101, et seq., as amended, prepared by the United States Department of Justice."

SECTION 3.2. G.S. 95-226(d) reads as rewritten:

"(d) Except as provided in ~~subsection~~ subsections (e) and (f) of this section, an operator may allow the migrant housing to be occupied only if the migrant housing has been certified by the Department of Labor of North Carolina or the United States Department of Labor to be in compliance with all of the standards under this Article, except that an operator may allow migrant housing to be occupied on a provisional basis

if the operator applied for a preoccupancy inspection at least 45 days prior to occupancy and the preoccupancy inspection was not conducted by the Department of Labor of North Carolina at least four days prior to the anticipated occupancy. Upon subsequent inspection by the Department of Labor of North Carolina, ~~such~~ the provisional occupancy shall be revoked if any deficiencies have not been corrected within the period of time specified by the Department of Labor of North Carolina, or within two days after receipt of written notice provided on-site to the operator. No penalties may be assessed for any violation of this Article which are found during the preoccupancy inspection, unless substantive violations exist during provisional occupancy."

SECTION 4. G.S. 95-226 is amended by adding two new subsections to read:

"(f) If an operator receives a preoccupancy inspection rating from the Department of Labor of North Carolina of one hundred percent (100%) compliance for a particular migrant housing unit for two consecutive years, in the third year the operator shall have the right to conduct the preoccupancy inspection for that particular migrant housing unit himself or herself. Operators conducting their own preoccupancy inspections pursuant to this subsection shall, at least 45 days prior to occupancy, register the migrant housing with the Department of Labor of North Carolina and notify in writing the appropriate local health department. The local health department shall inspect the migrant housing for compliance with G.S. 95-225(c) and (d). The operator shall request a preoccupancy inspection under subsection (a) of this section in the year following a year when the operator conducted a self-inspection under this subsection.

(g) In addition to any other applicable federal or State law or regulation, the Department may only conduct a postoccupancy inspection of operators:

(1) Who were subject to an annual preoccupancy inspection by the Department of Labor of North Carolina and found not to be in one hundred percent (100%) compliance at that inspection.

(2) Who were assessed a civil penalty by the Department of Labor of North Carolina during the previous calendar year for violations of this Article or pursuant to G.S. 95-136(a)(3).

(3) Who did not undergo a preoccupancy inspection, unless the operator conducted a self-inspection pursuant to subsection (f) of this section.

(4) In response to a referral from a federal, State, county, or local government official or any person with firsthand knowledge of an alleged violation of this Article or of an alleged safety or health hazard whom the Department of Labor of North Carolina deems to have provided a credible referral."

SECTION 5. G.S. 95-227 reads as rewritten:

"§ **95-227. Enforcement.**

(a) For the purpose of enforcing the standards provided by this Article, the provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall apply under this Article in a similar manner as they apply to places of employment under OSHANC; however, G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to migrant housing. For the purposes of this Article, the term:

(1) "Employer" in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed to mean an ~~operator;~~ operator.

(2) "Employee" shall be construed to mean a ~~migrant; and~~ migrant.

~~(3) "Director" shall mean the agent designated by the Commissioner to assist in the administration of this Article.~~

(b) The Commissioner may establish a new division to enforce this Article.

(c) The Department of Labor of North Carolina shall maintain a list of operators and the physical address of their migrant housing units, number of beds, and the date of the annual preoccupancy inspection and certification.

(d) The Department of Labor of North Carolina shall maintain a summary of any inspections filed annually with the Division that enforce this Article, including the number and type of citations issued and the violations found, if any.

(e) The Commissioner shall report no later than May 1 of each year to the Chairpersons of the Senate Appropriations Committee on Natural and Economic Resources and the Chairpersons of the House of Representatives Appropriations Subcommittee on Natural and Economic Resources regarding the number of annual preoccupancy certifications issued, the number of operators with one hundred percent (100%) compliance at the preoccupancy inspection, the number of postoccupancy inspections conducted by the Department of Labor of North Carolina, the number and type of citations and fines issued, the total number of migrant worker beds in the State, and the identification of operators who fail to apply for or obtain permits to operate migrant housing pursuant to this Article."

SECTION 5.1. Article 19 of Chapter 95 of the North Carolina General Statutes is amended by adding a new section to read:

"**§ 95-299.1. Actions upon finding uninhabitable migrant housing.**

If the Department of Labor of North Carolina determines that housing provided to migrants under this Article is uninhabitable, but is not reasonably expected to cause death or serious physical harm, the migrants shall be allowed to remain in the housing for a reasonable period, not to exceed 14 days, while the operator locates alternative housing or makes necessary repairs to make the housing habitable. No additional civil penalties arising from the condition of the housing shall be levied against the operator during the 14-day period after the housing has been determined to be uninhabitable in which the migrants are allowed to remain in the housing. The alternative housing shall be provided at the same rate or less than the rate paid by the migrants for the uninhabitable housing. If the Director determines, after recommendation by an inspector, that housing provided to migrants could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated, the migrants shall not be allowed to stay in the housing, and alternative housing shall be provided by the operator at the same rate or less than the rate paid by the migrants for the uninhabitable housing."

SECTION 6. The North Carolina Housing Finance Agency shall study (i) the need for low-cost financing for the construction and rehabilitation of migrant housing in North Carolina and (ii) the feasibility of a program to provide such financing in the State. The Agency shall report its findings no later than July 1, 2008, to the Joint Legislative Commission on Governmental Operations.

SECTION 7. The first report required by G.S. 95-227(f), as enacted by Section 5 of this act, is due no later than May 1, 2008.

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 10:25 p.m. on the 31st day of August, 2007.

Session Law 2007-549 **Senate Bill 1468**

AN ACT TO PROMOTE INNOVATIVE STORMWATER MANAGEMENT AND WATER QUALITY PROTECTION EFFORTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-251 reads as rewritten:

"§ **113A-251. Purpose.**

The General Assembly recognizes that a critical need exists in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted. The task of cleaning up polluted waters and protecting the State's water resources is multifaceted and requires different ~~approaches~~ approaches, including innovative pilot projects, that take into account the problems, the type of pollution, the geographical area, and the recognition that the hydrological and ecological values of each resource sought to be upgraded, conserved, and protected are unique.

It is the intent of the General Assembly that moneys from the Fund created under this Article shall be used to help finance projects that specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting and conserving unpolluted surface waters, including urban drinking water supplies. It is the further intent of the General Assembly that moneys from the Fund also be used to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. While the purpose of this Article is to focus on the cleanup and prevention of pollution of the State's surface waters and the establishment of a network of riparian buffers and greenways, the General Assembly believes that the results of these efforts will also be beneficial to wildlife and marine fisheries habitats."

SECTION 2. G.S. 113A-253(c) is amended by adding a new subdivision to read:

"(8a) To finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems."

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Became law upon approval of the Governor at 10:26 p.m. on the 31st day of August, 2007.

Session Law 2007-550 **Senate Bill 1492**

AN ACT TO: (1) CLARIFY THE CIRCUMSTANCES UNDER WHICH AN APPLICATION FOR A SOLID WASTE MANAGEMENT PERMIT MAY BE DENIED; (2) PROVIDE THAT SOLID WASTE MANAGEMENT PERMITS ARE NOT TRANSFERABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES; (3) INCREASE THE PENALTIES THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS; (4) REQUIRE THAT AN APPLICANT FOR A PERMIT AND A PERMIT HOLDER ESTABLISH FINANCIAL RESPONSIBILITY TO ENSURE THE AVAILABILITY OF SUFFICIENT FUNDS FOR PROPER DESIGN,

CONSTRUCTION, OPERATION, MAINTENANCE, CLOSURE, AND POST-CLOSURE MONITORING AND MAINTENANCE OF A SOLID WASTE MANAGEMENT FACILITY; (5) REQUIRE THAT AN OWNER OR OPERATOR OF A SANITARY LANDFILL ESTABLISH FINANCIAL ASSURANCE SUFFICIENT TO COVER A MINIMUM OF THREE MILLION DOLLARS IN COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT THE FACILITY, IN ADDITION TO OTHER FINANCIAL RESPONSIBILITY REQUIREMENTS; (6) CLARIFY AND EXPAND THE SCOPE OF ENVIRONMENTAL COMPLIANCE REVIEW REQUIREMENTS; (7) CLARIFY THAT A PARENT, SUBSIDIARY, OR OTHER AFFILIATE OF THE APPLICANT OR PARENT, INCLUDING ANY BUSINESS ENTITY OR JOINT VENTURER WITH A DIRECT OR INDIRECT INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (8) PROVIDE FOR SITING OF COMBUSTION PRODUCTS LANDFILLS IN AREAS THAT HAVE BEEN FORMERLY USED FOR THE STORAGE OR DISPOSAL OF COMBUSTION PRODUCTS FROM COAL-FIRED GENERATING UNITS AT THE SAME FACILITY THAT GENERATED THE COMBUSTION PRODUCTS, AND TECHNICAL REQUIREMENTS FOR THESE LANDFILLS; (9) SPECIFY ADDITIONAL TECHNICAL REQUIREMENTS FOR SOLID WASTE MANAGEMENT FACILITIES; (10) REQUIRE THAT ALL APPLICANTS FOR PERMITS FOR SANITARY LANDFILLS CONDUCT AN ENVIRONMENTAL IMPACT STUDY; (11) REQUIRE THAT CERTAIN APPLICANTS FOR SOLID WASTE MANAGEMENT FACILITY PERMITS CONDUCT A TRAFFIC STUDY; (12) CLARIFY THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (13) AUTHORIZE UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL LIAISONS; (14) ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL TAX TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE IN LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF PRE-1983 LANDFILLS AND FOR OTHER PURPOSES; (16) ESTABLISH A COMPUTER EQUIPMENT MANAGEMENT PROGRAM; (17) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A PROPOSED RECYCLING PROGRAM FOR FLUORESCENT LAMPS; (18) DIRECT THE ENVIRONMENT REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE FRANCHISE OF SOLID WASTE MANAGEMENT FACILITIES BY UNITS OF LOCAL GOVERNMENT AND THE TRANSPORTATION OF SOLID WASTE BY RAIL AND BARGE; AND (19) MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

Whereas, North Carolina has experienced severe problems from widespread flooding during the past five years; and

Whereas, large areas of the State have also experienced severe drought conditions during the past five years; and

Whereas, groundwater is the source of drinking water for approximately half the population of the State; and

Whereas, groundwater pollution is increasing due to contamination from a variety of sources; and

Whereas, depletion of certain large groundwater aquifers in the State has been documented in recent years; and

Whereas, protection and enhancement of water quality in the State's rivers and coastal estuaries is the declared public policy of the State; and

Whereas, North Carolina is home to many rare and endangered species of plants and animals; and

Whereas, the State has established many parks, natural areas, and wildlife refuges to protect habitats for migrating birds and other species; and

Whereas, many fragile ecosystems exist in the State which are in need of further study and protection; and

Whereas, the State recognizes that ecosystems transcend state borders, and that changes affecting the State's water, air, natural habitats, and scenic resources also have impacts outside the State; and

Whereas, it is the policy of the State to ensure the continued public enjoyment of the natural attractions of the State; and

Whereas, improperly sited, designed, or operated landfills have the potential to cause serious environmental damage, including groundwater contamination; and

Whereas, it is essential that the State study the siting, design, and operational requirements for landfills for the disposal of solid waste in areas susceptible to flooding from natural disasters, areas with high water tables, and other environmentally sensitive areas in order to protect public health and the environment; and

Whereas, it is critical to the protection of public health and the environment to adequately staff the State solid waste program to review permit applications, ensure compliance with State solid waste management laws and rules, and provide technical assistance on solid waste management issues; and

Whereas, it is the policy of the State to promote methods of solid waste management that are alternatives to disposal in landfills; and

Whereas, S.L. 2006-244 directed the Environmental Review Commission, with the assistance of the Division of Waste Management of the Department of Environment, to study issues related to solid waste; and

Whereas, the Environmental Review Commission met at least six times after the 2006 legislative session to discuss items related to solid waste; and

Whereas, bills have been introduced in the House of Representatives and the Senate during the 2007 Regular Session to address issues related to landfills and management of solid waste that have been the subject of intense discussion by members of the General Assembly and a stakeholder working group;

Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 130A-294, as amended by S.L. 2007-107, reads as rewritten:

"§ **130A-294. Solid waste management program.**

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste

management program. In establishing a program, the Department shall have authority to:

(1) Develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;

(2) Advise, consult, cooperate and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;

(3) Develop and adopt rules to establish standards for qualification as a "recycling, reduction or resource recovering facility" or as "recycling, reduction or resource recovering equipment" for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

~~b. The issuance of permits for sanitary landfills operated by local governments is exempt from the environmental impact statements required by Article 1 of Chapter 113A of the General Statutes, entitled the North Carolina Environmental Policy Act of 1971. All sanitary landfill permits issued to local governments prior to July 1, 1984, are hereby validated notwithstanding any failure to provide environmental impact~~

~~statements pursuant to the North Carolina Environmental Policy Act of 1971;~~

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.
2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Environmental Management Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.
3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Environmental Management Commission.
4. Construction or operation of the proposed facility would substantially limit or threaten access to or use of public trust waters or public lands.
5. The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety.
6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.
7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.
8. Construction or operation of the proposed facility would be inconsistent with the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.
9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would

have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964.

~~(4a) No permit shall be granted for any public or private sanitary landfill to receive solid non-radioactive waste generated outside the boundaries of North Carolina to be deposited, unless such waste has previously been inspected by the solid waste regulatory agency of that nation, state or territory, characterized in detail as to its contents and certified by that agency to be non-injurious to health and safety. The Commission shall adopt rules to implement this subsection.~~

(5) Repealed by Session Laws 1983, c. 795, s. 3.

(5a) Designate a geographic area within which the collection, transportation, storage and disposal of all solid waste generated within said area shall be accomplished in accordance with a solid waste management plan. Such designation may be made only after the Department has received a request from the unit or units of local government having jurisdiction within said geographic area that such designation be made and after receipt by the Department of a solid waste management plan which shall include:

a. The existing and projected population for such area;
b. The quantities of solid waste generated and estimated to be generated in such area;
c. The availability of sanitary landfill sites and the environmental impact of continued landfill of solid waste on surface and subsurface waters;
d. The method of solid waste disposal to be utilized and the energy or material which shall be recovered from the waste; and
e. Such other data that the Department may reasonably require.

(5b) Authorize units of local government to require by ordinance, that all solid waste generated within the designated geographic area that is placed in the waste stream for disposal be collected, transported, stored and disposed of at a permitted solid waste management facility or facilities serving such area. The provisions of such ordinance shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal, or prohibit collectors of solid waste from recycling materials or limit access to such materials as an incident to collection of such solid waste; provided such prohibitions do not authorize the construction and operation of a resource recovery facility unless specifically permitted pursuant to an approved solid waste management plan. If a private solid waste landfill shall be substantially affected by such ordinance then the unit of local government adopting the ordinance shall be required to give the operator of the affected landfill at least two years written notice prior to the effective date of the proposed ordinance.

(5c) Except for the authority to designate a geographic area to be serviced by a solid waste management facility, delegate authority and responsibility to units of local government to perform all or a portion of a solid waste management program within the jurisdictional area of the unit of local government; provided that no authority over or control

of the operations or properties of one local government shall be delegated to any other local government.

(5d) Require that an annual report of the implementation of the solid waste management plan within the designated geographic area be filed with the Department.

(6) ~~The Department is authorized to charge~~ Charge and collect fees from operators of hazardous waste disposal facilities. The fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during which the facility operator is required by applicable State and federal statutes, regulations or rules to remain responsible for post-closure monitoring and care. In establishing the fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility.

(7) Establish and collect annual fees from generators and transporters of hazardous waste, and from storage, treatment, and disposal facilities regulated under this Article as provided in G.S. 130A-294.1.

(a1) A permit for a solid waste management facility may be transferred only with the approval of the Department.

(b) The Commission shall adopt and the Department shall enforce rules to implement a comprehensive statewide solid waste management program. The rules shall be consistent with applicable State and federal law; and shall be designed to protect the public health, safety, and welfare; preserve the environment; and provide for the greatest possible conservation of cultural and natural resources. Rules for the establishment, location, operation, maintenance, use, discontinuance, recordation, post-closure care of solid waste management facilities also shall be based upon recognized public health practices and procedures, including applicable epidemiological research and studies; hydrogeological research and studies; sanitary engineering research and studies; and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

~~(b0) The Commission shall adopt rules for financial responsibility to ensure the availability of sufficient funds for closure and post-closure maintenance and monitoring at solid waste management facilities, and for any corrective action the Department may require during the active life of a facility or during the closure and post-closure periods. The rules may permit demonstration of financial responsibility through the use of a letter of credit, insurance, surety, trust agreement, financial test, or guarantee by corporate parents or third parties who can pass the financial test. The rules shall require that an owner or operator of a privately owned solid waste management facility demonstrate financial responsibility by a method or combinations of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and any corrective action that the Department may require will be available during the active life of the facility, at closure, and for a period of not less than 30 years after closure even if the owner or operator becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.~~

(b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this section, a "substantial amendment" means either:

a. An increase of ten percent (10%) or more in:
   1. The population of the geographic area to be served by the sanitary landfill;
   2. The quantity of solid waste to be disposed of in the sanitary landfill; or
   3. The geographic area to be served by the sanitary landfill.

b. A change in the categories of solid waste to be disposed of in the sanitary landfill or any other change to the application for a permit or to the permit for a sanitary landfill that the Commission or the Department determines to be substantial.

(2) A person who intends to apply for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill shall include all of the following:

a. A statement of the population to be served, including a description of the geographic area.

b. A description of the volume and characteristics of the waste stream.

c. A projection of the useful life of the sanitary landfill.

d. An explanation of how the franchise will be consistent with the jurisdiction's solid waste management plan required under G.S. 130A-309.09A, including provisions for waste reduction, reuse, and recycling.

e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.

f. A facility plan for the sanitary landfill that shall include the ~~exact~~ boundaries of the proposed facility, proposed development of the facility site in five-year operational phases, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

(2a) A local government may elect to award a preliminary franchise. If a local government elects to award a preliminary franchise, the preliminary franchise shall contain, at a minimum, all of the information described in sub-subdivisions a. through e. of subdivision (2) of this subsection plus a general description of the proposed

sanitary landfill, including the approximate number of acres required for the proposed sanitary landfill and its appurtenances and a description of any other solid waste management activities that are to be conducted at the site.

(3) Prior to the award of a franchise for the construction or operation of a sanitary landfill, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide at least 30 days' notice to the public of the public hearing. The notice shall include a summary of all the information required to be included in the franchise, and shall specify the procedure to be followed at the public hearing. The applicant for the franchise shall provide a copy of the application for the franchise that includes all of the information required to be included in the franchise, to the public library closest to the proposed sanitary landfill site to be made available for inspection and copying by the public.

(4) An applicant for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill shall request each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located to issue a determination as to whether the local government has in effect a franchise, zoning, subdivision, or land-use planning ordinance applicable to the sanitary landfill and whether the proposed sanitary landfill, or the existing sanitary landfill as it would be operated under the renewed or substantially amended permit, would be consistent with the applicable ordinances. The request to the local government shall be accompanied by a copy of the permit application and shall be delivered to the clerk of the local government personally or by certified mail. In order to serve as a basis for a determination that an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill is consistent with a zoning, subdivision, or land-use planning ordinance, an ordinance or zoning classification applicable to the real property designated in the permit application shall have been in effect not less than 90 days prior to the date the request for a determination of consistency is delivered to the clerk of the local government. The determination shall be verified or supported by affidavit signed by the chief administrative officer, the chief administrative officer's designee, clerk, or other official designated by the local government to make the determination and, if the local government states that the sanitary landfill as it would be operated under the new, renewed, or substantially amended permit is inconsistent with a franchise, zoning, subdivision, or land-use planning ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of the determination shall be provided to the applicant when the

determination is submitted to the Department. The Department shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant; provided that if a local government fails to submit a determination to the Department as provided by this subsection within 15 days after receipt of the request, the Department shall proceed to consider the permit application without regard to a franchise, local zoning, subdivision, and land-use planning ordinances. Unless the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the sanitary landfill as it would be operated under the new, renewed, or substantially amended permit is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Department shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the sanitary landfill under the permit, comply with all lawfully adopted local ordinances cited in the determination that apply to the sanitary landfill. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

(5) As used in this subdivision, "coal-fired generating unit" and "investor-owned public utility" have the same meaning as in G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no franchise shall be required for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

(b2) The Department ~~may~~ shall require an applicant for a permit or a permit holder under this Article to satisfy the Department that the applicant or permit holder, and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent:

(1) Is financially qualified to carry out the activity for which the permit is required. An applicant for a permit and permit holders for solid waste management facilities that are not hazardous waste facilities shall establish financial responsibility as required by ~~G.S. 130A-294(b0).~~G.S. 130A-295.2. An applicant for a permit and permit holders for hazardous waste facilities shall establish financial responsibility as required by G.S. 130A-295.04.

(2) Has substantially complied with the requirements applicable to any ~~solid waste management~~ activity in which the ~~applicant~~ applicant or permit holder, or a parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, or a joint venturer with a direct or indirect

interest in the applicant has previously engaged and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the ~~environment.~~environment as provided in G.S. 130A-295.3.

(b3) An applicant for a permit or a permit holder under this Article shall satisfy the Department that the applicant has met the requirements of subsection (b2) of this section before the Department is required to otherwise review the application. ~~In order to continue to hold a permit under this Article, a permittee must remain financially qualified and must provide any information requested by the Department to demonstrate that the permittee continues to be financially qualified.~~

…."

SECTION 1.(b) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date.

SECTION 2.(a) G.S. 130A-18 reads as rewritten:

"§ **130A-18. Injunction.**

(a) If a person shall violate any provision of this ~~Chapter or~~ Chapter, the rules adopted by the Commission or rules adopted by a local board of health, or a condition or term of a permit or order issued under this Chapter, the Secretary or a local health director may institute an action for injunctive relief, irrespective of all other remedies at law, in the superior court of the county where the violation occurred or where a defendant resides.

(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12 of this Chapter."

SECTION 2.(b) This section becomes effective 1 August 2007 and applies to violations that occur on or after that date.

SECTION 3.(a) G.S. 130A-22(a) reads as rewritten:

"(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed ~~twenty-five thousand dollars ($25,000)~~thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed ~~twenty-five thousand dollars ($25,000)~~ thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior

court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator."

SECTION 3.(b) This section becomes effective 1 August 2007 and applies to violations that occur on or after that date.

SECTION 4.(a) G.S. 130A-22 is amended by adding a new subsection to read:

"(j) The Secretary of Environment and Natural Resources may also assess the reasonable costs of any investigation, inspection, or monitoring associated with the assessment of the civil penalty against any person who is assessed a civil penalty under this section."

SECTION 4.(b) This section becomes effective 1 August 2007 and applies to violations that occur on or after that date.

SECTION 5.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.2. Financial responsibility requirements for applicants and permit holders for solid waste management facilities.**

(a) As used in this section:

(1) 'Financial assurance' refers to the ability of an applicant or permit holder to pay the costs of assessment and remediation in the event of a release of pollutants from a facility, closure of the facility in accordance with all applicable requirements, and post-closure monitoring and maintenance of the facility.

(2) 'Financial qualification' refers to the ability of an applicant or permit holder to pay the costs of proper design, construction, operation, and maintenance of the facility.

(3) 'Financial responsibility' encompasses both financial assurance and financial qualification.

(b) The Commission may adopt rules governing financial responsibility requirements for applicants for permits and for permit holders to ensure the availability of sufficient funds for the proper design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of solid waste management facilities and for any corrective action the Department may require during the active life of a facility or during the closure and post-closure periods.

(c) The Department may provide a copy of any filing that an applicant for a permit or a permit holder submits to the Department to meet the financial responsibility requirements under this section to the State Treasurer. The State Treasurer shall review the filing and provide the Department with a written opinion as to the adequacy of the filing to meet the purposes of this section, including any recommended changes.

(d) The Department may, in its sole discretion, require an applicant for a permit to construct a facility to demonstrate its financial qualification for the design, construction, operation, and maintenance of a facility. The Department may require an applicant for a permit for a solid waste management facility to provide cost estimates for site investigation; land acquisition, including financing terms and land ownership; design; construction of each five-year phase, if applicable; operation; maintenance; closure; and post-closure monitoring and maintenance of the facility to the Department. The Department may allow an applicant to demonstrate its financial qualifications for only the first five-year phase of the facility. If the Department allows an applicant for a

permit to demonstrate its financial qualification for only the first five-year phase of the facility, the Department shall require the applicant or permit holder to demonstrate its financial qualification for each successive five-year phase of the facility when applying for a permit to construct each successive phase of the facility.

(e) If the Department requires an applicant for a permit or a permit holder for a solid waste management facility to demonstrate its financial qualification, the applicant or permit holder shall provide an audited, certified financial statement. An applicant who is required to demonstrate its financial qualification may do so through a combination of cash deposits, insurance, and binding loan commitments from a financial institution licensed to do business in the State and rated AAA by Standard & Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent, subsidiary, or other affiliate of the applicant or a permit holder, or a joint venturer with a direct or indirect interest in the applicant or permit holder, are proposed to be used to demonstrate financial qualification, then the party whose assets are to be used must be designated as a joint permittee with the applicant on the permit for the facility.

(f) The applicant and permit holder for a solid waste management facility shall establish financial assurance by a method or combination of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and any corrective action that the Department may require will be available during the active life of the facility, at closure, and for any post-closure period of time that the Department may require even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State. Rules adopted by the Commission may allow a business entity that is an applicant for a permit or a permit holder to establish financial assurance through insurance, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used. Assets used to meet the financial assurance requirements of this section shall be in a form that will allow the Department to readily access funds for the purposes set out in this section. Assets used to meet financial assurance requirements of this section shall not be accessible to the permit holder except as approved by the Department.

(g) In order to continue to hold a permit under this Article, a permit holder must maintain financial responsibility and must provide any information requested by the Department to establish that the permit holder continues to maintain financial responsibility. A permit holder shall notify the Department of any significant change in the: (i) identity of any person or structure of the business entity that holds the permit for the facility; (ii) identity of any person or structure of the business entity that owns or operates the facility; or (iii) assets of the permit holder, owner, or operator of the facility. The permit holder shall notify the Department within 30 days of a significant change. A change shall be considered significant if it has the potential to affect the financial responsibility of the permit holder, owner, or operator, or if it would result in a change in the identity of the permit holder, owner, or operator for purposes of either financial responsibility or environmental compliance review. Based on its review of the changes, the Department may require the permit holder to reestablish financial responsibility and may modify or revoke a permit, or require issuance of a new permit.

(h) To meet the financial assurance requirements of this section, the owner or operator of a sanitary landfill shall establish financial assurance sufficient to cover a minimum of three million dollars ($3,000,000) in costs for potential assessment and corrective action at the facility. The Department may require financial assurance in a

higher amount and may increase the amount of financial assurance required of a permit holder at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

(i) The Commission may adopt rules under which a unit of local government and a solid waste management authority created pursuant to Article 22 of Chapter 153A of the General Statutes may meet the financial responsibility requirements of this section by either a local government financial test or a capital reserve fund requirement."

SECTION 5.(b) G.S. 130A-309.27 reads as rewritten:

"§ **130A-309.27. ~~Landfill escrow account.~~Joint and several liability.**

(a) As used in this section:

(1) "Owner or operator" means, in addition to the usual meanings of the term, any owner of record of any interest in land on which a landfill is or has been sited, ~~and~~ any person or ~~corporation which~~ business entity that owns a majority interest in any other ~~corporation~~ business entity which is the owner or operator of a ~~landfill.~~landfill, and any person designated as a joint permittee pursuant to G.S. 130A-295.2(e).

(2) "Proceeds" means all funds collected and received by the Department, including interest and penalties on delinquent fees.

(b) Every owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law.

~~(c) The owner or operator of a landfill shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons on their own property is exempt from the provisions of this section.~~

~~(1) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet State and federal landfill closure requirements.~~

~~(2) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the Department an annual audit of the account. The audit shall be conducted by a certified public accountant and shall be filed no later than 31 December of each year. Failure to collect or report this revenue, except as allowed in subsection (d), is a noncriminal violation, punishable by a fine of not more than five thousand dollars ($5,000) for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for planning and construction of resource recovery or landfill facilities. Any moneys remaining in the account after paying for proper and complete closure, as determined by the Department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund of the unit of local government.~~

~~(3) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of, or pledged as~~

~~security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with State and federal landfill closure requirements. The application or pledge may be made directly in the proceedings authorizing the bonds or in an agreement with an insurer of bonds to assure the insurer of this additional security.~~

~~(d) An owner or operator may establish proof of financial responsibility with the Department in lieu of the requirements of subsection (c). This proof may include surety bonds, certificates of deposit, securities, letter of credit, corporate guarantee, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with landfill closure requirements. The owner or operator shall estimate the costs to the satisfaction of the Department.~~

~~(e) This section does not repeal, limit, or abrogate any other law authorizing units of local government to fix, levy, or charge rates, fees, or charges for the purpose of complying with State and federal landfill closure requirements.~~

~~(f) The Commission shall adopt rules to implement this section.~~"

SECTION 5.(c) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date. The provisions of G.S. 130A-295.2(h), as enacted by this section, apply to the owner or operator of a sanitary landfill when the permit is next subject to renewal after 1 August 2009.

SECTION 6.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.3. Environmental compliance review requirements for applicants and permit holders.**

(a) For purposes of this section, "applicant" means an applicant for a permit and a permit holder and includes the owner or operator of the facility, and, if the owner or operator is a business entity, applicant also includes: (i) the parent, subsidiary, or other affiliate of the applicant; (ii) a partner, officer, director, member, or manager of the business entity, parent, subsidiary, or other affiliate of the applicant; and (iii) any person with a direct or indirect interest in the applicant, other than a minority shareholder of a publicly traded corporation who has no involvement in management or control of the corporation or any of its parents, subsidiaries, or affiliates.

(b) The Department shall conduct an environmental compliance review of each applicant for a new permit, permit renewal, and permit amendment under this Article. The environmental compliance review shall evaluate the environmental compliance history of the applicant for a period of five years prior to the date of the application and may cover a longer period at the discretion of the Department. The environmental compliance review of an applicant may include consideration of the environmental compliance history of the parents, subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any business entity or joint venturer with a direct or indirect interest in the applicant, and other facilities owned or operated by any of them. The Department shall determine the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in this subsection is or has been an owner, operator,

officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.

(c) The Department shall determine the extent to which the applicant, or a parent, subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or indirect interest in the applicant, has substantially complied with the requirements applicable to any activity in which any of these entities previously engaged, and has substantially complied with federal and State laws, regulations, and rules for the protection of the environment. The Department may deny an application for a permit if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions for the protection of the environment or for the conservation of natural resources as evidenced by civil penalty assessments, administrative or judicial compliance orders, or criminal penalties.

(d) A permit holder shall notify the Department of any significant change in its environmental compliance history or other information required by G.S. 130-295.2(g). The Department may reevaluate the environmental compliance history of a permit holder and may modify or revoke a permit or require issuance of a new permit."

SECTION 6.(b) G.S. 130A-309.06(b) is repealed.

SECTION 6.(c) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date.

SECTION 7.(a) G.S. 130A-290(a) is amended by adding three new subdivisions to read:

"(2a) "Coal-fired generating unit" means a coal-fired generating unit, as defined by 40 Code of Federal Regulations § 96.2 (1 July 2001 Edition), that is located in this State and has the capacity to generate 25 or more megawatts of electricity.

(2b) "Combustion products" means residuals, including fly ash, bottom ash, boiler slag, mill rejects, and flue gas desulfurization residue produced by a coal-fired generating unit.

(2c) "Combustion products landfill" means a facility or unit for the disposal of combustion products, where the landfill is located at the same facility with the coal-fired generating unit or units producing the combustion products, and where the landfill is located wholly or partly on top of a facility that is, or was, being used for the disposal or storage of such combustion products, including, but not limited to, landfills, wet and dry ash ponds, and structural fill facilities."

SECTION 7.(b) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.4. Combustion products landfills.**

(a) The definitions set out in G.S. 130A-290(a) apply to this section.

(b) The Department may permit a combustion products landfill to be constructed partially or entirely within areas that have been formerly used for the storage or disposal of combustion products at the same facility as the coal-fired generating unit that generates the combustion products, provided the landfill is constructed with a bottom liner system consisting of three components in accordance with this section. Of the required three components, the upper two components shall consist of two separate flexible membrane liners, with a leak detection system between the two liners. The third component shall consist of a minimum of two feet of soil underneath the bottom of those liners, with the soil having a maximum permeability of 1 x 10^{-7} centimeters per

second. The flexible membrane liners shall have a minimum thickness of thirty one-thousandths of an inch (0.030"), except that liners consisting of high-density polyethylene shall be at least sixty one-thousandths of an inch (0.060") thick. The lower flexible membrane liner shall be installed in direct and uniform contact with the compacted soil layer. The Department may approve an alternative to the soil component of the composite liner system if the Department finds, based on modeling, that the alternative liner system will provide an equivalent or greater degree of impermeability.

(c) An applicant for a permit for a combustion products landfill shall develop and provide to the Department a response plan, which shall describe the circumstances under which corrective measures are to be taken at the landfill in the event of the detection of leaks in the leak detection system between the upper two liner components at amounts exceeding an amount specified in the response plan (as expressed in average gallons per day per acre of landfill, defined as an Action Leakage Rate). The response plan shall also describe the remedial actions that the landfill is required to undertake in response to detection of leakage in amounts in excess of the Action Leakage Rate. The Department shall review the response plan as a part of the permit application for the landfill. Compliance with performance of the landfill to prevent releases of waste to the environment may be determined based on leakage rate rather than monitoring well data."

SECTION 7.(c) This section becomes effective 1 August 2007. Any permit issued for a combustion products landfill as described in this section shall, for purposes of this bill, be considered to have been permitted on property described in a solid waste management facility permit that is in effect on 1 August 2007.

SECTION 8.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.5. Traffic study required for certain solid waste management facilities.**

(a) An applicant for a permit for a sanitary landfill or for a transfer station shall conduct a traffic study of the impacts of the proposed facility. The Department shall include as a condition of a permit for a sanitary landfill or for a transfer station a requirement that the permit holder mitigate adverse impacts identified by the traffic study. The study shall include all of the following at a minimum:

(1) Identification of routes from the nearest limited access highway used to access the proposed facility.

(2) Daily and hourly traffic volumes that will result along each approach route between the nearest limited access highway and the proposed facility.

(3) A map identifying land uses located along the identified approach routes, including, but not limited to, residential, commercial, industrial development, and agricultural operations. The map shall identify residences, schools, hospitals, nursing homes, and other significant buildings that front the approach routes.

(4) Identification of locations on approach routes where road conditions are inadequate to handle the increased traffic associated with the proposed facility and a description of the mitigation measures proposed by the applicant to address the conditions.

(5) A description of the potential adverse impacts of increased traffic associated with the proposed facility and the mitigation measures proposed by the applicant to address these impacts.

(6) An analysis of the impact of any increase in freight traffic on railroads and waterways.

(b) An applicant for a permit for a sanitary landfill or for a transfer station may satisfy the requirements of subsection (a) of this section by obtaining a certification from the Division Engineer of the Department of Transportation that the proposed facility will not have a substantial impact on highway traffic."

SECTION 8.(b) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date. The section shall not apply to:

(1) An amendment, modification, or other change to a permit for a landfill issued on or before 1 June 2006.

(2) A permit for a horizontal or vertical expansion of the landfill permitted on or before 1 June 2006.

(3) A permit to construct a new landfill within the facility boundary identified in the facility plan of a landfill permitted on or before 1 June 2006.

(4) A permit to operate a new landfill if a permit to construct the new landfill was issued on or before 1 June 2006.

(5) A permit for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

(6) A permit for a sanitary landfill determined to be necessary by the Secretary of Environment and Natural Resources in order to respond to an imminent hazard to public health or a natural disaster.

SECTION 9.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.6. Additional requirements for sanitary landfills.**

(a) The Department shall conduct a study of the environmental impacts of any proposed sanitary landfill. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. If an environmental impact statement is required, the Department shall publish notice of the draft environmental impact statement and shall hold a public hearing in the county where the landfill will be located no sooner than 30 days following the public notice. The Department shall consider the study of environmental impacts and any mitigation measures proposed by the applicant in deciding whether to issue or deny a permit. An applicant for a permit for a sanitary landfill shall pay all costs incurred by the Department to comply with this subsection including the costs of any special studies that may be required.

(b) The Department shall require a buffer between any perennial stream or wetland and the nearest waste disposal unit of a sanitary landfill of at least 200 feet. The Department may approve a buffer of less than 200 feet, but in no case less than 100 feet, if it finds all of the following:

(1) The proposed sanitary landfill or expansion of the sanitary landfill will serve a critical need in the community.

(2) There is no feasible alternative location that would allow siting or expansion of the sanitary landfill with 200-foot buffers.

(c) A waste disposal unit of a sanitary landfill shall not be constructed within:

(1) A 100-year floodplain or land removed from a 100-year floodplain designation pursuant to 44 Code of Federal Regulations Part 72 (1

October 2006 Edition) as a result of man-made alterations within the floodplain such as the placement of fill, except as authorized by variance granted under G.S. 143-215.54A(b). This subdivision does not apply to land removed from a 100-year floodplain designation (i) as a result of floodplain map corrections or updates not resulting from man-made alterations of the affected areas within the floodplain, or (ii) pursuant to 44 Code of Federal Regulations Part 70 (1 October 2006 Edition) by a letter of map amendment.

(2) A wetland, unless the applicant or permit holder can show all of the following, as to the waste disposal unit:

a. Where applicable under section 404 of the federal Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed waste disposal unit is available which does not involve wetlands is clearly rebutted;

b. Construction of the waste disposal unit will not do any of the following:

1. Cause or contribute to violations of any applicable State water quality standard.

2. Violate any applicable toxic effluent standard or prohibition under section 307 of the federal Clean Water Act.

3. Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the federal Endangered Species Act of 1973.

4. Violate any requirement under the federal Marine Protection, Research, and Sanctuaries Act of 1972.

c. Construction of the waste disposal unit will not cause or contribute to significant degradation of wetlands.

d. To the extent required under section 404 of the federal Clean Water Act or applicable State wetlands laws, any unavoidable wetlands impacts will be mitigated.

(d) The Department shall not issue a permit to construct any disposal unit of a sanitary landfill if, at the time the application is determined to be complete under G.S. 130A-295.8(e), any portion of the proposed waste disposal unit would be located within:

(1) Five miles of the outermost boundary of a National Wildlife Refuge.

(2) One mile of the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission pursuant to G.S. 113-306.

(3) Two miles of the outermost boundary of a component of the State Parks System.

(e) A sanitary landfill for the disposal of construction and demolition debris waste shall be constructed with a liner system that consists of a flexible membrane liner over two feet of soil with a maximum permeability of 1 x 10^{-5} centimeters per second. The flexible membrane liner shall have a minimum thickness of thirty one-thousandths of an inch (0.030"), except that a liner that consists of high-density polyethylene shall be at least sixty one-thousandths of an inch (0.060") thick. The flexible membrane liner shall be installed in direct and uniform contact with the soil layer. The Department may

approve an alternative to the soil component of the liner system if the Department finds, based on modeling, that the alternative liner system will provide an equivalent or greater degree of impermeability.

(f) A sanitary landfill, other than a sanitary landfill for the disposal of construction and demolition debris waste, shall be constructed so that the post-settlement bottom elevation of the liner system, or the post-settlement bottom elevation of the waste if no liner system is required, is a minimum of four feet above both the seasonal high groundwater table and the bedrock datum plane contours. A sanitary landfill for the disposal of construction and demolition debris waste shall be constructed so that the post-settlement bottom elevation of the flexible membrane liner component of the liner system is a minimum of four feet above both the seasonal high groundwater table and the bedrock datum plane contours.

(g) A permit holder for a sanitary landfill shall develop and implement a waste screening plan. The plan shall identify measures adequate to ensure compliance with State laws and rules and any applicable local ordinances that prohibit the disposal of certain items in landfills. The plan shall address all sources of waste generation. The plan is subject to approval by the Department.

(h) The following requirements apply to any sanitary landfill for which a liner is required:

(1) A geomembrane base liner system shall be tested for leaks and damage by methods approved by the Department that ensure that the entire liner is evaluated.

(2) A leachate collection system shall be designed to return the head of the liner to 30 centimeters or less within 72 hours. The design shall be based on the precipitation that would fall on an empty cell of the sanitary landfill as a result of a 25-year-24-hour storm event. The leachate collection system shall maintain a head of less than 30 centimeters at all times during leachate recirculation. The Department may require the operator to monitor the head of the liner to demonstrate that the head is being maintained in accordance with this subdivision and any applicable rules.

(3) All leachate collection lines shall be designed and constructed to permanently allow cleaning and remote camera inspection. All leachate collection lines shall be cleaned at least once a year, except that the Department may allow leachate collection lines to be cleaned once every two years if: (i) the facility has continuous flow monitoring; and (ii) the permit holder demonstrates to the Department that the leachate collection lines are clear and functional based on at least three consecutive annual cleanings. Remote camera inspections of the leachate collection lines shall occur upon completion of construction, at least once every five years thereafter, and following the clearing of blockages.

(4) Any pipes used to transmit leachate shall provide dual containment outside of the disposal unit. The bottom liner of a sanitary landfill shall be constructed without pipe penetrations.

(i) The Department shall not issue a permit for a sanitary landfill that authorizes:

(1) A capacity of more than 55 million cubic yards of waste.

(2) A disposal area of more than 350 acres.

(3) A maximum height, including the cap and cover vegetation, of more than 250 feet above the mean natural elevation of the disposal area."

SECTION 9.(b) This section becomes effective 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date. To the extent that G.S. 130A-295.6, as enacted by this section, imposes requirements that are more stringent than those in effect prior to 1 August 2007, the more stringent requirements do not apply to:

(1) An amendment, modification, or other change to a permit for a landfill issued on or before 1 June 2006.

(2) A permit for a horizontal or vertical expansion of the landfill permitted on or before 1 June 2006.

(3) A permit to construct a new landfill within the facility boundary identified in the facility plan of a landfill permitted on or before 1 June 2006.

(4) A permit to operate a new landfill if a permit to construct the new landfill was issued on or before 1 June 2006.

(5) A permit for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

(6) A permit for a sanitary landfill determined to be necessary by the Secretary of Environment and Natural Resources in order to respond to an imminent hazard to public health or a natural disaster.

SECTION 10.(a) G.S. 153A-292(b) reads as rewritten:

"(b) The board of county commissioners may impose a fee for the collection of solid waste. The fee may not exceed the costs of collection.

The board of county commissioners may impose a fee for the use of a disposal facility provided by the county. The fee for use may not exceed the cost of operating the facility and may be imposed only on those who use the facility. The fee for use may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. A county may not impose a fee for the use of a disposal facility on a city located in the county or a contractor or resident of the city unless the fee is based on a schedule that applies uniformly throughout the county.

The board of county commissioners may impose a fee for the availability of a disposal facility provided by the county. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the county that benefits from the availability of the facility. A county may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the county. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the county disposal facility is not considered to benefit from a disposal facility provided by the county and is not subject to a fee imposed by the county for the availability of a disposal facility provided by the county. To the extent that the services provided by the county disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same county, the county may charge an availability fee to cover the costs of the additional services provided by the county disposal facility.

In determining the costs of providing and operating a disposal facility, a county may consider solid waste management costs incidental to a county's handling and disposal of solid waste at its disposal facility, including the costs of the methods of solid waste management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of 1989. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the county."

SECTION 10.(b) G.S. 160A-314.1(a) reads as rewritten:

"(a) In addition to a fee that a city may impose for collecting solid waste or for using a disposal facility, a city may impose a fee for the availability of a disposal facility provided by the city. A fee for availability may not exceed the cost of providing the facility and may be imposed on all improved property in the city that benefits from the availability of the facility. A city may not impose an availability fee on property whose solid waste is collected by a county, a city, or a private contractor for a fee if the fee imposed by a county, a city, or a private contractor for the collection of solid waste includes a charge for the availability and use of a disposal facility provided by the city. Property served by a private contractor who disposes of solid waste collected from the property in a disposal facility provided by a private contractor that provides the same services as those provided by the city disposal facility is not considered to benefit from a disposal facility provided by the city and is not subject to a fee imposed by the city for the availability of a disposal facility provided by the city. To the extent that the services provided by the city disposal facility differ from the services provided by the disposal facility provided by a private contractor in the same city, the city may charge an availability fee to cover the costs of the additional services provided by the city disposal facility.

In determining the costs of providing and operating a disposal facility, a city may consider solid waste management costs incidental to a city's handling and disposal of solid waste at its disposal facility. A fee for the availability or use of a disposal facility may be based on the combined costs of the different disposal facilities provided by the city."

SECTION 10.(c) This section becomes effective 1 August 2007.

SECTION 11.(a) G.S. 153A-136 is amended by adding two new subsections to read:

"(e) A county that has planning jurisdiction over any portion of the site of a sanitary landfill may employ a local government landfill liaison. No person who is responsible for any aspect of the management or operation of the landfill may serve as a local government landfill liaison. A local government landfill liaison shall have a right to enter public or private lands on which the landfill facility is located at reasonable times to inspect the landfill operation in order to:

(1) Ensure that the facility meets all local requirements.

(2) Identify and notify the Department of suspected violations of applicable federal or State laws, regulations, or rules.

(3) Identify and notify the Department of potentially hazardous conditions at the facility.

(f) Entry pursuant to subsection (e) of this section shall not constitute a trespass or taking of property."

SECTION 11.(b) Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-325. Local government landfill liaison.**

(a) A city that has planning jurisdiction over any portion of the site of a sanitary landfill may employ a local government landfill liaison. No person who is responsible for any aspect of the management or operation of the landfill may serve as a local government landfill liaison. A local government landfill liaison shall have a right to enter public or private lands on which the landfill facility is located at reasonable times to inspect the landfill operation in order to:

(1) Ensure that the facility meets all local requirements.

(2) Identify and notify the Department of suspected violations of applicable federal or State laws, regulations, or rules.

(3) Identify and notify the Department of potentially hazardous conditions at the facility.

(b) Entry pursuant to this section shall not constitute a trespass or taking of property."

SECTION 11.(c) This section becomes effective 1 August 2007.

SECTION 12.(a) G.S. 130A-290(a), as amended by S.L. 2007-107, is amended by renumbering subdivision (1a) as (1b), renumbering subdivision (1b) as (1c), renumbering subdivision (1c) as (1d), and by adding a new subdivision to read:

"(1a) 'Business entity' has the same meaning as in G.S. 55-1-40(2a)."

SECTION 12.(b) G.S. 130A-290(a), as amended by S.L. 2007-107, is amended by renumbering subdivision (21a) as (21b) and by adding a new subdivision to read:

"(21a) 'Pre-1983 landfill' means any land area, whether publicly or privately owned, on which municipal solid waste disposal occurred prior to 1 January 1983 but not thereafter, but does not include any landfill used primarily for the disposal of industrial solid waste."

SECTION 12.(c) This section becomes effective 1 August 2007.

SECTION 13.(a) Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) 'New permit' means any of the following:

a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to operate the constructed portion of a phase included in the permit to construct.

b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.

c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.

d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) 'Permit amendment' means any of the following:

a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described in the approved facility plan for a permitted solid waste management facility.

b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility.

c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility.

(3) 'Permit modification' means any of the following:

a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a 'permit amendment' or a 'new permit'.

b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.

(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:

(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $25,000.

(2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment – $15,000.

(3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.

(4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $50,000.

(5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment – $30,000.

(6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Modification – $3,000.

(7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $15,000.

(8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment – $9,000.

(9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.

(10) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $30,000.

(11) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment – $18,500.

(12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Modification – $2,500.

(13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit – $15,000.

(14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment – $9,000.

(15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Modification – $1,500.

(16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit – $30,000.
(17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment – $18,500.
(18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Modification – $2,500.
(19) Tire Monofill, New Permit – $1,750.
(20) Tire Monofill, Amendment – $1,250.
(21) Tire Monofill, Modification – $500.
(22) Treatment and Processing, New Permit – $1,750.
(23) Treatment and Processing, Amendment – $1,250.
(24) Treatment and Processing, Modification – $500.
(25) Transfer Station, New Permit – $5,000.
(26) Transfer Station, Amendment – $3,000.
(27) Transfer Station, Modification – $500.
(28) Incinerator, New Permit – $1,750.
(29) Incinerator, Amendment – $1,250.
(30) Incinerator, Modification – $500.
(31) Large Compost Facility, New Permit – $1,750.
(32) Large Compost Facility, Amendment – $1,250.
(33) Large Compost Facility, Modification – $500.
(34) Land Clearing and Inert, New Permit – $1,000.
(35) Land Clearing and Inert, Amendment – $500.
(36) Land Clearing and Inert, Modification – $250.

(d) A permitted solid waste management facility shall pay an annual permit fee on or before 1 August of each year according to the following schedule:

(1) Municipal Solid Waste Landfill – $3,500.
(2) Post-Closure Municipal Solid Waste Landfill – $1,000.
(3) Construction and Demolition Landfill – $2,750.
(4) Post-Closure Construction and Demolition Landfill – $500.
(5) Industrial Landfill – $2,750.
(6) Post-Closure Industrial Landfill – $500.
(7) Transfer Station – $750.
(8) Treatment and Processing Facility – $500.
(9) Tire Monofill – $500.
(10) Incinerator – $500.
(11) Large Compost Facility – $500.
(12) Land Clearing and Inert Debris Landfill – $500.

(e) The Department shall determine whether an application for a permit for a solid waste management facility that is subject to a fee under this section is complete within 90 days after the Department receives the application for the permit. A determination of completeness means that the application includes all required components but does not mean that the required components provide all of the information that is required for the Department to make a decision on the application. If the Department determines that an application is not complete, the Department shall notify the applicant of the components needed to complete the application. An applicant may submit additional information to the Department to cure the deficiencies in the application. The Department shall make a final determination as to whether the application is complete within the later of: (i) 90 days after the Department receives the

application for the permit less the number of days that the applicant uses to provide the additional information; or (ii) 30 days after the Department receives the additional information from the applicant. The Department shall issue a draft permit decision on an application for a permit within one year after the Department determines that the application is complete. The Department shall hold a public hearing and accept written comment on the draft permit decision for a period of not less than 30 or more than 60 days after the Department issues a draft permit decision. The Department shall issue a final permit decision on an application for a permit within 90 days after the comment period on the draft permit decision closes. The Department and the applicant may mutually agree to extend any time period under this subsection. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes."

SECTION 13.(b) This section becomes effective on 1 August 2007 and applies to any application for a permit for a solid waste management facility that is pending on that date, except that during the period 1 August 2007 through 1 August 2008 the Department shall determine whether an application or a permit for a solid waste management facility is complete within 270 days after the Department receives the application for the permit.

SECTION 14.(a) Subchapter I of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5G.

"Solid Waste Disposal Tax.

"**§ 105-187.60. Definitions.**

The definitions set out in G.S. 105-164.3 and G.S. 130A-290 apply to this Article.

"**§ 105-187.61. Tax imposed.**

(a) Tax Rate. – An excise tax is imposed on the disposal of municipal solid waste and construction and demolition debris in any landfill permitted pursuant to Article 9 of Chapter 130A of the General Statutes at a rate of two dollars ($2.00) per ton of waste. An excise tax is imposed on the transfer of municipal solid waste and construction and demolition debris to a transfer station permitted pursuant to Article 9 of Chapter 130A of the General Statutes for disposal outside the State at a rate of two dollars ($2.00) per ton of waste.

(b) Tax Liability. – The excise tax imposed by this section is due on municipal solid waste and construction and demolition debris received from third parties and on municipal solid waste and construction and demolition debris disposed of by the owner or operator. The tax is payable by the owner or operator of each landfill and transfer station permitted under Article 9 of Chapter 130A of the General Statutes.

"**§ 105-187.62. Administration.**

The owner or operator of each landfill and transfer station permitted pursuant to Article 9 of Chapter 130A of the General Statutes shall maintain scales designed to determine waste tonnage that are approved by the Department of Agriculture and Consumer Services. Each owner or operator shall record waste tonnage at the time the waste is received and maintain other records as required by the Secretary of Revenue. An owner or operator may add the amount of the solid waste disposal tax due to the charges made to a third party for disposal of municipal solid waste or construction and demolition debris. The tax imposed by this Article is payable and a return is due to be filed in the same manner as required under G.S. 105-164.16 for sales and use tax.

"**§ 105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary shall credit or distribute taxes received pursuant to this Article, less the cost of collection, as follows:

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) Thirty-seven and one-half percent (37.5%) to units of local government that provide solid waste management services directly to residents within the political boundaries of the unit of local government as determined by the Department of Environment and Natural Resources, distributed on a per capita basis as described in G.S. 105-472(b)(1). Funds distributed under this subdivision shall be used by a unit of local government solely for solid waste management programs and services. As used in this subdivision, "unit of local government" includes a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes.

(3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 14.(b) Part 2A of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-295.9. Solid waste disposal tax; use of proceeds.**

It is the intent that the proceeds of the solid waste disposal tax imposed by Article 5G of Chapter 105 of the General Statutes shall be used only for the following purposes:

(1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous Sites Cleanup Fund shall be used by the Department of Environment and Natural Resources to fund the assessment and remediation of pre-1983 landfills. Up to seven percent (7%) of the funds credited under this subdivision may be used to fund staff to administer contracts for the assessment and remediation of pre-1983 landfills.

(2) Funds credited pursuant to G.S. 105-187.63(3) to the Solid Waste Management Trust Fund shall be used by the Department of Environment and Natural Resources to fund grants to State agencies and units of local government to initiate or enhance local recycling programs and to provide for the management of difficult to manage solid waste, including abandoned mobile homes and household hazardous waste. Up to seven percent (7%) of the funds credited under this subdivision may be used by the Department to administer this Part."

SECTION 14.(c) G.S. 130A-310.6 is amended by adding four new subsections to read:

"(c) The Secretary shall use funds allocated to the Department under G.S. 130A-295.9(1) to assess pre-1983 landfills, to determine the priority for remediation of pre-1983 landfills, and to develop and implement a remedial action plan for each pre-1983 landfill that requires remediation. Environmental and human health risks posed by a pre-1983 landfill may be mitigated using a risk-based approach for assessment and remediation.

(d) The Secretary shall not seek cost recovery from a unit of local government for assessment and remedial action performed under subsection (c) of this section at a

pre-1983 landfill. The Secretary shall not seek cost recovery for assessment and remedial action performed under subsection (c) of this section at a pre-1983 landfill from any other potentially responsible party if the Secretary develops and implements a remedial action plan for that pre-1983 landfill. If any potentially responsible party fails to cooperate with assessment of a site and implementation of control and mitigation measures at any site which the potentially responsible party owns or over which the potentially responsible party exercises control through a lease or other property interest, the Secretary may seek cost recovery for assessment and remedial action. Cooperation with assessment of a site and implementation of control and mitigation measures includes, but is not limited to, granting access to the site, allowing installation of monitoring wells, allowing installation and maintenance of improvements to the landfill cap, allowing installation of security measures, agreeing to record and implement land-use restrictions, and providing access to any records regarding the pre-1983 landfill. Nothing in this section shall alter any right, duty, obligation, or liability between a unit of local government and a third party. Nothing in this section shall alter any right, duty, obligation, or liability between any other potentially responsible party and a unit of local government, a third party, or, except as provided in this subsection, to the State.

(e) The Secretary shall develop and implement remedial action plans for pre-1983 landfills in the order of their priority determined as provided in subsection (c) of this section. The Secretary shall not develop or implement a remedial action plan for a pre-1983 landfill unless the Secretary determines that sufficient funds will be available from the Inactive Hazardous Sites Cleanup Fund to pay the costs of development and implementation of a remedial action plan for that pre-1983 landfill.

(f) A unit of local government that voluntarily undertakes assessment or remediation of a pre-1983 landfill may request that the Department reimburse the costs of assessment of the pre-1983 landfill and implementation of measures necessary to remediate the site to eliminate an imminent hazard. The Department shall provide reimbursement under this subsection if the Department finds all of the following:

(1) The unit of local government undertakes assessment and remediation under a plan approved by the Department.

(2) The unit of local government provides a certified accounting of costs incurred for assessment and remediation.

(3) Each contract for assessment and remediation complies with the requirements of Articles 3D and 8 of Chapter 143 of the General Statutes.

(4) Remedial action is limited to measures necessary to abate the imminent hazard.

(g) The Department may undertake any additional action necessary to remediate a pre-1983 landfill based on the priority ranking of the site under subsection (c) of this section."

SECTION 14.(d) G.S. 130A-310.11 reads as rewritten:

"§ **130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

(a) There is established under the control and direction of the Department the Inactive Hazardous Sites Cleanup Fund. This fund shall be a revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, taxes, and other monies paid to it or recovered by or on behalf of the Department. The Inactive Hazardous Sites Cleanup Fund shall be treated as a

nonreverting special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-309.295.9(c)."

SECTION 14.(e) This section becomes effective 1 July 2008.

SECTION 15.(a) The Commission for Health Services shall review rules governing the design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of solid waste management facilities to determine whether changes are required to protect public health, safety, welfare, and the environment; to improve the performance of solid waste management facilities; to take advantage of technological advances in landfill design, construction, operation, maintenance, and closure; and to provide additional protection to environmentally sensitive areas of the State. The Commission shall adopt rules necessary to minimize impacts from solid waste management facilities on public health, safety, welfare, and the environment. These rules shall:

(1) Establish standards for the collection, control, and utilization or destruction of landfill gases at municipal solid waste landfills.

(2) Establish standards for the design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of bioreactor landfills.

(3) Establish criteria for development of bird and wildlife management plans.

(4) Incorporate measures necessary to minimize impacts to natural, historic, and cultural resources, including, but not limited to, wetlands, critical fisheries habitats, parks, recreation areas, cultural and historic sites, and potential water supplies.

SECTION 15.(b) This section is effective when it becomes law.

SECTION 16.1.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2E. Discarded Computer Equipment Management.

"**§ 130A-309.90. Findings.**

The General Assembly makes the following findings:

(1) The computer equipment waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.

(2) It is in the best interests of the citizens of this State to have convenient, simple, and free access to recycling services for discarded computer equipment.

(3) Collection programs operated by local government and nonprofit agencies are an efficient way to divert discarded computer equipment from disposal and to provide recycling services to all citizens of this State.

(4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment.

(5) No other system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment from disposal.

(6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment take part in a solution to the electronic waste problem.

(7) The recycling of discarded computer equipment recovers valuable materials for reuse and will create jobs and expand the tax base of the State.

"**§ 130A-309.91. Definitions.**

As used in this Part, the following definitions apply:

(1) Business entity. – Defined in G.S. 55-1-40(2a).

(2) Computer equipment. – Any desktop central processing unit, any laptop computer, the monitor or video display unit for a computer system, and the keyboard, mice, and other peripheral equipment. Computer equipment does not include a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

(3) Discarded computer equipment. – Computer equipment that is solid waste.

(4) Discarded computer equipment collector. – A municipal or county government, nonprofit agency, or retailer that accepts discarded computer equipment from the public.

(5) Manufacturer. – A person who manufactures computer equipment sold under its own brand or label; sells under its own brand or label computer equipment produced by other suppliers; imports into the United States computer equipment that was manufactured outside of the United States; or owns a brand that it licenses to another person for use on computer equipment. Manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment.

(6) Orphan discarded computer equipment. – Any discarded computer equipment for which a manufacturer cannot be identified or for which the manufacturer is no longer in business and has no successor in interest.

(7) Retailer. – A person who sells computer equipment in the State to a consumer. Retailer includes a manufacturer of computer equipment that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person who sells computer equipment to a distributor or retailer through a wholesale transaction.

"**§ 130A-309.92. Responsibility for recycling discarded computer equipment.**

In addition to the specific requirements of this Part, discarded computer equipment collectors and manufacturers share responsibility for the recycling of discarded

computer equipment and the education of citizens of the State as to recycling opportunities for discarded computer equipment.

"**§ 130A-309.93. Requirements for manufacturers.**

(a) Registration and Fee Required. – Each manufacturer of computer equipment, before selling or offering for sale computer equipment in North Carolina, shall register with the Department and, at the time of registration, shall pay an initial registration fee of ten thousand dollars ($10,000) to the Department. A computer equipment manufacturer that has registered shall pay an annual renewal registration fee of one thousand dollars ($1,000) to the Department. The annual renewal registration fee shall be paid each year no later than the first day of the month in which the initial registration fee was paid. The proceeds of these fees shall be credited to the Computer Equipment Management Account. A manufacturer of computer equipment that sells 1,000 items of computer equipment or less per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

(b) Manufacturer Label Required. – A manufacturer shall not sell or offer to sell computer equipment in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) Computer Equipment Recycling Plan. – Each manufacturer of computer equipment shall develop and submit to the Department a plan for reuse or recycling of discarded computer equipment in the State produced by the manufacturer. The manufacturer shall submit a proposed plan to the Department within 120 days of registration as required by subsection (a) of this section. The plan shall:

(1) Describe any direct take-back program to be implemented by the manufacturer, including mail-back programs and collection events.

(2) Provide that the manufacturer will take responsibility for discarded computer equipment it manufactured.

(3) Include a detailed description as to how the manufacturer will implement and finance the plan.

(4) Provide for environmentally sound management practices to transport and recycle discarded computer equipment.

(5) Describe the performance measures that will be used by the manufacturer to document recovery and recycling rates for discarded computer equipment. The calculation of recycling rates shall include the amount of discarded computer equipment managed under the manufacturer's program divided by the amount of computer equipment sold by the manufacturer in North Carolina.

(6) Describe in detail how the manufacturer will provide for transportation of discarded computer equipment at no cost from discarded computer equipment collectors.

(7) Describe in detail how the manufacturer will fully cover the costs of processing discarded computer equipment received from discarded computer equipment collectors.

(8) Include a public education plan on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements.

(d) Computer Equipment Recycling Plan Revision. – A manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The Department

may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out-of-date.

(e) Payment of Costs for Plan Implementation. – Each manufacturer is responsible for all costs associated with the development and implementation of its plan. A manufacturer shall not collect a charge for the management of discarded computer equipment at the time the equipment is discarded.

(f) Joint Computer Equipment Recycling Plans. – A manufacturer may fulfill the requirements of this section by participation in a joint recycling plan with other manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

(g) Annual Report. – Each manufacturer shall submit a report to the Department by 1 February of each year that includes all of the following for the previous calendar year:

(1) A description of the collection and recycling services used to recover the manufacturer's products.

(2) The quantity and type of computer equipment sold by the manufacturer to retail consumers in this State.

(3) The quantity and type of discarded computer equipment collected by the manufacturer for recovery in this State for the preceding calendar year.

(4) Any other information requested by the Department.

"**§ 130A-309.94. Requirements for discarded computer equipment collectors.**

Each discarded computer equipment collector shall ensure that discarded computer equipment received by the collector is consolidated at central locations, properly stored, and either held for pickup by a manufacturer or delivered to a facility designated by a manufacturer.

"**§ 130A-309.95. Responsibilities of the Department.**

In addition to its other responsibilities under this Part, the Department shall:

(1) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.93 and provide the current list to the Office of Information Technology Services each time that the list is updated.

(2) Develop and implement a public education program on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements. The Department shall make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of G.S. 130A-309.93(c)(8). The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment collection centers and in the development and implementation of local public education programs.

(3) Maintain the confidentiality of any information that is required to be submitted by a manufacturer under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.

"**§ 130A-309.96. Computer Equipment Management Account.**

The Computer Equipment Management Account is created as a nonreverting account within the Department. Funds in the Account shall be used by the Department to implement the provisions of this Part.

"**§ 130A-309.97. Enforcement.**

This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

"**§ 130A-309.98. Annual report.**

No later than 1 April of each year, the Department shall submit a report on the recycling of discarded computer equipment in the State under this Part to the Environmental Review Commission. The report must include an evaluation of the recycling rates in the State for discarded computer equipment, a discussion of compliance and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment or other electronic devices."

SECTION 16.1.(b) The Department shall include in the annual report for 1 April 2011, as required by G.S. 130A-309.98, as enacted by Section 16.1(a) of this act, an analysis of the feasibility and advisability of deleting the exclusion of printing devices from the definition of computer equipment as set out in G.S. 130A-309.91, as enacted by Section 16.1(a) of this act.

SECTION 16.2. G.S. 130A-309.09A(b)(6) reads as rewritten:

"(6) Include an assessment of current programs and a description of intended actions with respect to:

a. Education with the community and through the schools.

b. Management of special wastes.

c. Prevention of illegal disposal and management of litter.

d. Purchase of recycled materials and products manufactured with recycled materials.

e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer equipment, as defined in G.S. 130A-309.91."

SECTION 16.3. G.S. 130A-309.10(f) is amended by adding a new subdivision to read:

"(14) Discarded computer equipment, as defined in G.S. 130A-309.91."

SECTION 16.4. G.S. 130A-309.10(f1) is amended by adding a new subdivision to read:

"(7) Discarded computer equipment, as defined in G.S. 130A-309.91."

SECTION 16.5. Part 4 of Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-33.104. Purchase by State agencies and governmental entities of certain computer equipment prohibited.**

(a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

(b) No State agency, political subdivision of the State, or other public body shall purchase computer equipment, as defined in G.S. 130A-309.91, from any manufacturer determined not to be in compliance with the requirements of G.S. 130A-309.93 as determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1).

(c) The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies. A manufacturer that is not in compliance with the requirements of G.S. 130A-309.93 shall not sell or offer for sale computer equipment to the State, a political subdivision of the State, or other public body."

SECTION 16.6.(a) Part 2E of Article 9 of Chapter 130A of the General Statutes, as enacted by Section 16.1(a) of this act, becomes effective as follows:

(1) G.S. 130A-309.90 becomes effective 1 January 2009.
(2) G.S. 130A-309.91 becomes effective 1 January 2009.
(3) G.S. 130A-309.92 becomes effective 1 January 2009.
(4) G.S. 130A-309.93(a) becomes effective 1 January 2009.
(5) G.S. 130A-309.93(b) becomes effective 1 January 2009.
(6) G.S. 130A-309.93(c) becomes effective 1 October 2009.
(7) G.S. 130A-309.93(d) becomes effective 1 October 2009.
(8) G.S. 130A-309.93(e) becomes effective 1 January 2009.
(9) G.S. 130A-309.93(f) becomes effective 1 January 2009.
(10) G.S. 130A-309.93(g) becomes effective 1 February 2011.
(11) G.S. 130A-309.94 becomes effective 1 January 2010.
(12) G.S. 130A-309.95(1) becomes effective 1 January 2009.
(13) G.S. 130A-309.95(2) becomes effective 1 January 2009.
(14) G.S. 130A-309.95(3) becomes effective 1 January 2009.
(15) G.S. 130A-309.96 becomes effective 1 January 2009.
(16) G.S. 130A-309.97 becomes effective 1 January 2009.
(17) G.S. 130A-309.98 becomes effective 1 April 2011.

SECTION 16.6.(b) Section 16.2 of this act becomes effective 1 January 2009. Sections 16.3 and 16.4 of this act become effective 1 January 2012. Section 16.5 of this act becomes effective 1 July 2009. Subsection (b) of Section 16.1 of this act, Section 16.6 of this act, and any other provision of this act for which an effective date is not specified become effective 1 January 2009.

SECTION 17. The Division of Waste Management and the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources shall jointly develop a proposal for a recycling program for fluorescent lamps. The program will be developed so as to ensure that substantially all of the mercury contained in fluorescent lamps will be recovered so as to facilitate a phaseout of incandescent lamps without damage to public health and the environment from the increased use of mercury lamps as replacements for fluorescent lamps. The Department of Environment and Natural Resources shall report its findings and recommendations, including legislative proposals and cost estimates, to the Environmental Review Commission on or before 1 March 2008.

SECTION 18. The Environmental Review Commission shall study issues related to the franchise of solid waste management facilities by units of local government. The Environmental Review Commission, with the assistance of the Department of Justice, shall study issues related to the transportation of solid waste by rail or barge, including the extent to which regulation of the transportation of solid waste by rail or barge by state governments may be preempted by federal law. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the 2008 Regular Session of the General Assembly.

SECTION 19. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 20. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 10:35 p.m. on the 31st day of August, 2007.

Session Law 2007-551 **House Bill 1005**

AN ACT TO REQUIRE THAT RECOMMENDATIONS ON DEBT CAPACITY INCLUDE RECOMMENDATIONS RELATED TO DEBT SUPPORTED BY THE GENERAL FUND, THE HIGHWAY FUND, AND THE HIGHWAY TRUST FUND; TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO REVIEW THE STIP PLANNING AND DEVELOPMENT PROCESS; TO DIRECT THE OFFICE OF STATE BUDGET AND MANAGEMENT TO STUDY LONG-TERM ECONOMIC, MOBILITY, AND INFRASTRUCTURE NEEDS; TO ENACT CERTAIN BRIDGE CONSTRUCTION GUIDELINES; AND TO REQUIRE COMPLIANCE WITH CERTAIN FEDERAL GUIDELINES FOR TRANSPORTATION PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 142-101(d) reads as rewritten:

"(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee's recommendations shall include recommendations on debt capacities for debt supported by the General Fund, the Highway Fund, and the Highway Trust Fund. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt."

SECTION 2. The Department shall review the State Transportation Improvement Program (STIP) project planning, development, and prioritization process to determine any needed legislation to address congestion, mobility, and transportation infrastructure needs to meet established transportation network performance targets, and shall study alternative funding sources. The Department shall report its findings and recommendations to the Joint Legislative Transportation Oversight Committee by October 1, 2007.

SECTION 3. The Office of State Budget and Management shall conduct a study to develop a statewide logistics plan to address long-term economic, mobility, and infrastructure needs. The study shall include, but not be limited to, all of the following:

(1) Identification of priority commerce needs.
(2) Transportation infrastructure, including multimodal solutions, to support key industries vital to the State's long-term economic growth.
(3) Input from State agencies and the private sector.
(4) A timetable for meeting any identified needs.

The Office of State Budget and Management shall report its findings to the Joint Legislative Transportation Oversight Committee not later than April 1, 2008. Of the funds appropriated to the Department of Transportation from the Highway Fund, the Department may use up to one million dollars ($1,000,000) to pay for this study.

SECTION 4. Article 2A of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7D. Bridge construction guidelines.**

A bridge crossing rivers and streams in watersheds shall be constructed to accommodate the hydraulics of a flood water level equal to the water level projected for a 100-year flood for the region in which the bridge is built. The bridge shall be built without regard for the riparian buffer zones as designated by the Department of Environment and Natural Resources, Division of Water Quality. No Memorandums of Agreement may be made between Departments to bypass this construction mandate. No agency rules shall be enacted contrary to this section."

SECTION 5. Article 2A of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7E. Compliance with federal guidelines for transportation projects.**

The Department may continue to use the Merger '01 process provided the relevant portions of P.L. 109-59, Section 6002, (SAFETEA-LU) are incorporated to ensure the Department as the recipient agency is the co-lead agency with the United States Department of Transportation, delegating all other federal, state, or local agencies as participating or cooperating agencies. The Department's designation as a co-lead agency shall inure to the Department the authority to determine the purpose and need of a project and to determine viable alternatives. Any conflict between cooperating or participating agencies and the Department shall be resolved by the Department in favor of the completion of the project in conflict."

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Became law upon approval of the Governor at 11:00 p.m. on the 31st day of August, 2007.

Session Law 2007-552 Extra Session 2007 **House Bill 4**

AN ACT TO CREATE AN ECONOMIC DEVELOPMENT TOOL TO RETAIN HIGH-QUALITY JOBS IN THE STATE BY PROVIDING GRANT INCENTIVES FOR CAPITAL IMPROVEMENTS TO BUSINESSES THAT ARE PROPORTIONALLY RELATED TO EMPLOYEE RETENTION WITHIN THE STATE FOR POSITIONS MEETING CERTAIN WAGE, INSURANCE, HEALTH, ENVIRONMENTAL, AND OTHER RELEVANT STANDARDS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437.11. Job Maintenance and Capital Development Fund.**

(a) Findings. – The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity, to maintain high-paying jobs for the citizens of the State, and to encourage capital investment by encouraging and promoting the maintenance of existing business and industry within the State.

(2) The economic condition of the State is not static, and recent changes in the State's economic condition have created economic distress that requires the enactment of a new program as provided in this section

that is designed to encourage the retention of significant numbers of high-paying jobs and the addition of further large-scale capital investment.

(3) The enactment of this section is necessary to stimulate the economy and maintain high-quality jobs in North Carolina, and this section will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the maintenance of high-quality jobs, an enlargement of the overall tax base, continued diversity in the State's industrial base, and an increase in revenue to the State's political subdivisions.

(4) The purpose of this section is to stimulate economic activity and to maintain high-paying jobs within the State while increasing the property tax base for local governments.

(5) The benefits that flow to the State from job maintenance and capital investment are many and include increased tax revenues related to the capital investment, increased corporate income and franchise taxes due to the placement of additional resources in the State, a better trained, highly skilled workforce, and the continued receipt of personal income tax withholdings from workers who remain employed in high-paying jobs.

(b) Fund. – The Job Maintenance and Capital Development Fund is created as a restricted reserve in the Department of Commerce. Monies in the Fund do not revert but remain available to the Department for these purposes. The Department may use monies in the Fund only to encourage businesses to maintain high-paying jobs and make further capital investments in the State as provided in this section, and funds are hereby appropriated for these purposes in accordance with G.S. 143C-1-2.

(c) Definitions. – The definitions in G.S. 143B-437.51 apply in this section. In addition, as used in this section, the term 'Department' means the Department of Commerce.

(d) Eligibility. – A business that satisfies all of the following conditions is eligible for consideration for a grant under this section:

(1) The Department certifies that the business has invested or intends to invest at least two hundred million dollars ($200,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences.

(2) The business employs at least 2,000 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 2,000 full-time employees or equivalent full-time contract employees at the project for the full term of the grant agreement.

(3) The project is located in a development tier one area at the time the business applies for a grant.

(4) All newly hired employees of the business must be citizens of the United States, or have proper identification and documentation of their authorization to reside and work in the United States.

(e) Wage Standard. – A business is eligible for consideration for a grant under this section only if the business satisfies a wage standard at the project that is the subject

of the agreement. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to one hundred forty percent (140%) of the average wage for all insured private employers in the county. The Department of Commerce shall annually publish the wage standard for each county. In making the wage calculation, the business shall include any jobs that were filled for at least 1,600 hours during the calendar year, regardless of whether the jobs are full-time positions or equivalent full-time contract positions. Each year that a grant agreement is in effect, the business shall provide the Department a certification that the business continues to satisfy the wage standard. If a business fails to satisfy the wage standard for a year, the business is not eligible for a grant payment for that year.

(f) Health Insurance. – A business is eligible for consideration for a grant under this section only if the business makes available health insurance for all of the full-time employees and equivalent full-time contract employees of the project with respect to which the application is made. For the purposes of this subsection, a business makes available health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage under G.S. 58-50-125.

Each year that a grant agreement under this section is in effect, the business shall provide the Department a certification that the business continues to make available health insurance for all full-time employees of the project governed by the agreement. If a business fails to satisfy the requirements of this subsection, the business is not eligible for a grant payment for that year.

(g) Safety and Health Programs. – A business is eligible for consideration for a grant under this section only if the business has no citations under the Occupational Safety and Health Act that have become a final order within the last three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made. For the purposes of this subsection, 'serious violation' has the same meaning as in G.S. 95-127.

(h) Environmental Impact. – A business is eligible for consideration for a grant under this section only if the business has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last three years with respect to the location for which the grant is made. For the purposes of this subsection, a significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d).

(i) Selection. – The Department shall administer the selection of projects to receive grants under this section. The selection process shall include the following components:

(1) Criteria. – The Department shall develop criteria to be used to identify and evaluate eligible projects for possible grants under this section.

(2) Initial evaluation. – The Department shall evaluate projects to determine if a grant under this section is merited and to determine whether the project is eligible and appropriate for consideration for a grant under this section.

(3) Application. – The Department shall require a business to submit an application in order for a project to be considered for a grant under this

section. The Department shall prescribe the form of the application, the application process, and the information to be provided, including all information necessary to evaluate the project in accordance with the applicable criteria.

(4) Committee. – The Department shall submit to the Economic Investment Committee the applications for projects the Department considers eligible and appropriate for a grant under this section. The Committee shall evaluate applications to choose projects to receive a grant under this section. In evaluating each application, the Committee shall consider all criteria adopted by the Department under this section and, to the extent applicable, the factors set out in Section 2.1(b) of S.L. 2002-172.

(5) Findings. – The Committee shall make all of the following findings before recommending a project receive a grant under this section:

a. The conditions for eligibility have been met.

b. A grant under this section for the project is necessary to carry out the public purposes provided in subsection (a) of this section.

c. The project is consistent with the economic development goals of the State and of the area where it is located.

d. The affected local governments have participated in retention efforts and offered incentives in a manner appropriate to the project.

e. A grant under this section is necessary for the sustainability and maintenance of the project in this State.

(6) Recommendations. – If the Committee recommends a project for a grant under this section, it shall recommend the amount of State funds to be committed, the preferred form and details of the State participation, and the performance criteria and safeguards to be required in order to protect the State's investment.

(j) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for a grant under this section, the Department shall enter into an agreement to provide a grant or grants for a project recommended by the Committee. Each grant agreement is binding and constitutes a continuing contractual obligation of the State and the business. The grant agreement shall include the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department. Each grant agreement shall contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Each grant agreement shall contain a provision requiring the business to maintain the employment level at the project that is the subject of the agreement that is the lesser of the level it had at the time it applied for a grant under this section or that it had at the time that the investment required under subsection (d) of this section began. For the purposes of this subsection, the employment level includes full-time employees and equivalent full-time contract employees. The agreement shall further specify that the amount of a grant shall be reduced in proportion to the extent the business fails to maintain employment at this level and that the business shall not be eligible for a grant in any year in which its employment level is less than eighty percent (80%) of that required. A grant agreement

may obligate the State to make a series of grant payments over a period of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Attorney General's office in preparing the documentation for the grant agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section shall be signed personally by the Attorney General.

(k) Safeguards. – To ensure that public funds are used only to carry out the public purposes provided in this section, the Department shall require that each business that receives a grant under this section shall agree to meet performance criteria to protect the State's investment and ensure that the projected benefits of the project are secured. The performance criteria to be required shall include maintenance of an appropriate level of employment at specified levels of compensation, maintenance of health insurance for all full-time employees, investment of a specified amount over the term of the agreement, and any other criteria the Department considers appropriate. The agreement shall require the business to repay or reimburse an appropriate portion of the grant based on the extent of any failure by the business to meet the performance criteria. The agreement shall require the business to repay all amounts received under the agreement and to forfeit any future grant payments if the business fails to satisfy the investment eligibility requirement of subdivision (d)(1) of this section. The use of contract employees shall not be used to reduce compensation at the project that is the subject of the agreement.

(l) Calculation of Grant Amounts. – The Committee shall consider the following factors in determining the amount of a grant that would be appropriate, but is not necessarily limited to these factors:

(1) Ninety-five percent (95%) of the privilege and sales and use taxes paid by the business on machinery and equipment installed at the project that is the subject of the agreement.

(2) Ninety-five percent (95%) of the sales and use taxes paid by the business on building materials used to construct, renovate, or repair facilities at the project that is the subject of the agreement.

(3) Ninety-five percent (95%) of the additional income and franchise taxes that are not offset by tax credits. For the purposes of this subdivision, 'additional income and franchise taxes' are the additional taxes that would be due because of the investment in machinery and equipment and real property at the project that is the subject of the agreement during the investment period specified in subsection (d) of this section.

(4) Ninety-five percent (95%) of the sales and use taxes paid on electricity, the excise tax paid on piped natural gas, and the privilege tax paid on other fuel for electricity, piped natural gas, and other fuel consumed at the project that is the subject of the agreement.

(5) One hundred percent (100%) of worker training expenses, including wages paid for on-the-job training, associated with the project that is the subject of the agreement.

(6) One hundred percent (100%) of any State permitting fees associated with the capital expansion at the project that is the subject of the agreement.

(m) Monitoring and Reports. – The Department is responsible for monitoring compliance with the performance criteria under each grant agreement and for administering the repayment in case of default. The Department shall pay for the cost of this monitoring from funds appropriated to it for that purpose or for other economic development purposes.

Within two months after the end of each calendar quarter, the Department shall report to the Joint Legislative Commission on Governmental Operations regarding the Job Maintenance and Capital Development Fund. This report shall include a listing of each grant awarded and each agreement entered into under this section during the preceding quarter, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the grant expected to be paid under the agreement during the current fiscal year. The report shall also include detailed information about any defaults and repayment during the preceding quarter. The Department shall publish this report on its Web site and shall make printed copies available upon request.

(n) Limitations. – The Department may enter into no more than five agreements under this section. The total aggregate cost of all agreements entered into under this section may not exceed sixty million dollars ($60,000,000). The total annual cost of an agreement entered into under this section may not exceed four million dollars ($4,000,000)."

SECTION 2. There is appropriated from the General Fund to the Job Maintenance and Capital Development Fund, created under Section 1 of this act, the sum of five million dollars ($5,000,000) for the 2008-2009 fiscal year.

SECTION 3. G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

…

(18) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Job Maintenance and Capital Development Fund under G.S. 143B-437.11."

SECTION 4. The Joint Select Committee on Economic Development Incentives shall compile a report that lists and quantifies all economic development incentives offered by the State. The report shall be a comprehensive listing of economic development incentives and shall include information on tax expenditures, grant and loan programs, State appropriations that directly or indirectly support economic development, State appropriations to other public and private entities for economic development initiatives, and the use of State trust funds. The Committee shall make a final report, including any recommendations or legislative proposals, to the 2009 General Assembly and may make an interim report to the 2008 Regular Session of the 2007 General Assembly.

SECTION 5. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 11th day of September, 2007.

Became law upon approval of the Governor at 4:02 p.m. on the 11th day of September, 2007.

VETOES
OF
GOVERNOR MICHAEL F. EASLEY

G.S. 120-34(a) provides that "In any case where the Governor has returned a bill to the General Assembly with objections, those objections shall be printed verbatim in the Session Laws, regardless of whether or not the bill became law notwithstanding the objections."

Bill Number	Title of Bill
HOUSE BILL 1761	AN ACT TO CREATE THE JOB MAINTENANCE AND CAPITAL DEVELOPMENT FUND.

Veto Message for House Bill 1761

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

August 30, 2007

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

House Bill 1761, "An Act to Create the Job Maintenance and Capital Development Fund."

House Bill 1761 would set a dangerous precedent for North Carolina's economic development policy and is not fair to her taxpayers. It calls for the state to give up to $40 million in cash to an existing company in one county with little or no regard for how much the company actually pays in state and local taxes, what wages it pays now or in the future, or whether it lays off nearly 25% of its workforce. Never in the history of the state has anyone given a company up to $40 million and allowed them to lay off hundreds of workers.

We are proud of the employer and its hard working employees that House Bill 1761 was designed to help. But this bill does not protect those employees or the state of North Carolina.

Therefore, I veto the bill.

Michael F. Easley

The bill, having been vetoed, is returned to the Clerk of the North Carolina House of Representatives on this 30th day of August 2007 at 1:13 pm *for reconsideration by that body.*

Denise Weeks
8/30/07

LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811

RESOLUTIONS

OF THE

STATE OF NORTH CAROLINA

REGULAR SESSION 2007

EXTRA SESSION 2007

Resolution 2007-1 **House Joint Resolution 5**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BERNARD ALLEN, SR., FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, Bernard Allen was born on August 24, 1937, to James Allen, Sr. and Louise Hoover Allen, and spent his early years in Allendale, South Carolina; and

Whereas, Bernard Allen began his college education at Voorhees College in Denmark, South Carolina, and later used his athletic ability to earn a football scholarship to St. Augustine's College in Raleigh; and

Whereas, Bernard Allen obtained a bachelors degree in secondary education from St. Augustine's College in 1962, a masters degree in public administration from North Carolina Central University in 1979, and took additional graduate courses at East Carolina University; and

Whereas, for many years, Bernard Allen served as an educator and a school administrator in the Vance County public schools; and

Whereas, after his retirement from the education field, Bernard Allen became one of the first African-Americans to register as a lobbyist in the State of North Carolina; and

Whereas, Bernard Allen's background in education and his personal experience helped him succeed as a lobbyist for the black teachers association, a position he held until 1971, when the black and white teacher associations merged into the North Carolina Association of Educators (NCAE); and

Whereas, Bernard Allen served as a lobbyist for NCAE in numerous positions for 25 years, serving as a field consultant and staff investigator, who represented teachers and administrators before State and local school boards, and as the organization's chief legislative lobbyist in North Carolina and Washington, D.C., advocated for better salaries and working conditions for more than 50,000 public educators in North Carolina; and

Whereas, Bernard Allen served as a lobbyist for the Office of the Secretary of State for a number of years, helping the agency advocate its positions and policies before the General Assembly; and

Whereas, Bernard Allen's strong desire to continue his role as a public servant and his commitment to be an effective member of his community influenced his decision to enter the race for a seat in the North Carolina House of Representatives in 2002, which he won by an overwhelming margin; and

Whereas, Representative Allen served with honor and distinction as a member of the House of Representatives for two terms during the 2003 and 2005 sessions of the General Assembly; and

Whereas, during his tenure in the General Assembly, Representative Allen made significant contributions as a member of numerous committees, including: Appropriations, Appropriations Subcommittee on Health and Human Services, Education, Education Subcommittee on Pre-School, Elementary and Secondary Education, Finance, State Government, State Personnel, Pensions and Retirement, and the Select Committee on the North Carolina State Employees' Disability Plans; and

Whereas, Representative Allen served in various House leadership positions, including Chair of State Personnel, Vice-Chair of Pensions and Retirement, and Vice-Chair of the Select Committee on the Lottery, and sponsored legislation creating the lottery and protecting the health and safety of those who receive drinking water from private wells; and

Whereas, Representative Allen was a man of integrity, who fought for the poor, the uneducated, and the disenfranchised and was admired for being attentive and respectful to everyone; and

Whereas, Representative Allen was an active participant in civic and community activities, serving as a member of the Committee on Student Teaching in North Carolina, the National Education Association's Task Force on the Dismissal of Black Educators in the South, the Raleigh-Wake Citizen's Association, and the NAACP, and was a founding member of the Saint Augustine's College Falcon Foundation; and

Whereas, Representative Allen served as chair of the advisory committee of WTVD television station, President of the Sir Walter Jaycees, State Director of the NAACP Voter Empowerment Program, and chair of North Carolina Central University's Board of Trustees for two years during his 10-year tenure, and was elected the national representative of the St. Augustine's College Board of Trustees by the national alumni membership; and

Whereas, Representative Allen was a devoted member of the St. Ambrose Episcopal Church in Raleigh; and

Whereas, Representative Allen died on October 14, 2006, at the age of 69 and only a few weeks before his unopposed election to a third term in the House of Representatives; and

Whereas, Representative Allen leaves to cherish his memory, his wife, Vivian Sneed Allen, two sons, Bernard Allen II and Andre Allen, and one grandson; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Bernard Allen, Sr. and expresses the gratitude and appreciation of this State and its citizens for his life and service to his community and to North Carolina.

SECTION 2. The General Assembly extends its sincere sympathy to the family and friends of Bernard Allen, Sr. for the loss of a beloved husband, father, grandfather, and true friend.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Bernard Allen, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of February, 2007.

Resolution 2007-2 **House Joint Resolution 37**

A JOINT RESOLUTION HONORING THE APPALACHIAN STATE UNIVERSITY FOOTBALL TEAM ON WINNING ITS SECOND STRAIGHT NATIONAL CHAMPIONSHIP AND HONORING THE MEMORY OF DR. LOWELL FURMAN.

Whereas, on December 15, 2006, Appalachian State University's football team won the 2006 National Collegiate Athletic Association's (NCAA) Division I championship, defeating the University of Massachusetts by a score of 28-17; and

Whereas, this victory gave the Mountaineers their second straight national title; and

Whereas, the Mountaineers won their second straight Southern Conference championship compiling a conference record of 7-0 and an overall record of 14-1, the most wins in school history; and

Whereas, many individual Mountaineer players were recognized for their efforts during the season, including Armanti Edwards, who was named the national Freshman of the Year; Kevin Richardson, who was chosen as the Most Valuable Player during the playoffs and the Southern Conference Offensive Player of the Year; and Marques Murrell, who was named the Southern Conference Defensive Player of the Year; and

Whereas, a school record of eight players received all-American honors, including Armanti Edwards, Kevin Richardson, Kerry Brown, Marques Murrell, Corey Lynch, Jeremy Wiggins, Daniel Bettis, and Matt Isenhour, and 19 players received all-conference selections; and

Whereas, Coach Jerry Moore received numerous coaching awards, including the Eddie Robinson Award from The Sports Network, and was named the national Coach of the Year by the American Football Coaches Association; and

Whereas, Coach Moore improved his number of victories at Appalachian State University to 154, further extending his record for the most wins for any coach in the Southern Conference; and

Whereas, the entire football team and coaching staff deserve recognition and congratulations for winning a second national football championship, which has brought great honor and distinction to the State; and

Whereas, it is also fitting to recognize the Mountaineers' strong fan base, which provided outstanding support to the team during its 2006 season; and

Whereas, one of those ardent fans was the late Dr. Lowell Furman, a longtime supporter of ASU football and ASU athletics, who served as a physician for ASU's football team for five decades, President of the North Carolina Surgical Association, President of the Watauga Surgical Group for 34 years, cofounder of the World Medical

Missions, and as a two-term governor for North Carolina to the American College of Surgeons; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly congratulates the Appalachian State University Mountaineers on winning the 2006 National Collegiate Athletic Association Division I Football Championship and recognizes the achievements of the players, coaches, students, alumni, and support staff who were instrumental in helping the football team win its second straight national championship.

SECTION 2. The General Assembly honors the memory of Dr. Lowell Furman for his contributions to Appalachian State University athletics.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to Appalachian State University Chancellor Kenneth Peacock, Athletics Director Charlie Cobb, Head Coach Jerry Moore, and the family of Dr. Lowell Furman.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of February, 2007.

Resolution 2007-3 **Senate Joint Resolution 33**

A JOINT RESOLUTION HONORING THE APPALACHIAN STATE UNIVERSITY FOOTBALL TEAM ON WINNING ITS SECOND STRAIGHT NATIONAL CHAMPIONSHIP AND HONORING THE MEMORY OF DR. LOWELL FURMAN.

Whereas, on December 15, 2006, Appalachian State University's football team won the 2006 National Collegiate Athletic Association's (NCAA) Division I championship, defeating the University of Massachusetts by a score of 28-17; and

Whereas, this victory gave the Mountaineers their second straight national title; and

Whereas, the Mountaineers won their second straight Southern Conference championship compiling a conference record of 7-0 and an overall record of 14-1, the most wins in school history; and

Whereas, many individual Mountaineer players were recognized for their efforts during the season, including Armanti Edwards, who was named the national Freshman of the Year; Kevin Richardson, who was chosen as the Most Valuable Player during the playoffs and the Southern Conference Offensive Player of the Year; and Marques Murrell, who was named the Southern Conference Defensive Player of the Year; and

Whereas, a school record of eight players received all-American honors, including Armanti Edwards, Kevin Richardson, Kerry Brown, Marques Murrell, Corey Lynch, Jeremy Wiggins, Daniel Bettis, and Matt Isenhour, and 19 players received all-conference selections; and

Whereas, Coach Jerry Moore received numerous coaching awards, including the Eddie Robinson Award from The Sports Network, and was named the national Coach of the Year by the American Football Coaches Association; and

Whereas, Coach Moore improved his number of victories at Appalachian State University to 154, further extending his record for the most wins for any coach in the Southern Conference; and

Whereas, the entire football team and coaching staff deserve recognition and congratulations for winning a second national football championship, which has brought great honor and distinction to the State; and

Whereas, it is also fitting to recognize the Mountaineers' strong fan base, which provided outstanding support to the team during its 2006 season; and

Whereas, one of those ardent fans was the late Dr. Lowell Furman, a longtime supporter of ASU football and ASU athletics, who served as a physician for ASU's football team for five decades, President of the North Carolina Surgical Association, President of the Watauga Surgical Group for 34 years, cofounder of the World Medical Missions, and as a two-term governor for North Carolina to the American College of Surgeons; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly congratulates the Appalachian State University Mountaineers on winning the 2006 National Collegiate Athletic Association Division I Football Championship and recognizes the achievements of the players, coaches, students, alumni, and support staff who were instrumental in helping the football team win its second straight national championship.

SECTION 2. The General Assembly honors the memory of Dr. Lowell Furman for his contributions to Appalachian State University athletics.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to Appalachian State University Chancellor Kenneth Peacock, Athletics Director Charlie Cobb, Head Coach Jerry Moore, and the family of Dr. Lowell Furman.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of February, 2007.

Resolution 2007-4 **Senate Joint Resolution 121**

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR MICHAEL F. EASLEY, THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. A committee of six Senators appointed by the President Pro Tempore of the Senate and six Representatives appointed by the Speaker of the House of Representatives shall notify His Excellency, Governor Michael F. Easley, that the General Assembly is organized and is ready to proceed with public business and to invite him to address a joint session of the Senate and House of Representatives in the Hall of the House of Representatives at 7:00 P.M. on February 19, 2007.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of February, 2007.

Resolution 2007-5 **Senate Joint Resolution 235**

A JOINT RESOLUTION PROVIDING THAT THE GENERAL ASSEMBLY SHALL MEET IN JOINT SESSION TO HONOR THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL WOMEN'S SOCCER TEAM FOR WINNING THE 2006 NCAA CHAMPIONSHIP.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. On Thursday, February 22, 2007, at 9:00 A.M., the Senate and the House of Representatives shall meet in joint session in the Hall of the Senate to honor the University of North Carolina at Chapel Hill women's soccer team for winning the 2006 National Collegiate Athletic Association Division I Women's Soccer Championship.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of February, 2007.

Resolution 2007-6 **Senate Joint Resolution 279**

A JOINT RESOLUTION HONORING THE WOMEN'S SOCCER TEAM AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL ON BECOMING THE 2006 NCAA NATIONAL WOMEN'S SOCCER CHAMPIONS.

Whereas, the women's soccer program at The University of North Carolina at Chapel Hill warrants recognition and a commendation for its outstanding record of excellence; and

Whereas, since 1979, the women's soccer program has achieved an overall record of 629-28-18, becoming the most successful women's collegiate soccer program in history; and

Whereas, on December 2, 2006, the women's soccer team won the NCAA National Championship by defeating the University of Notre Dame by a score of 2-1, giving the women's soccer program its 18th national championship title; and

Whereas, the women's soccer team finished the 2006 Atlantic Coast Conference (ACC) season as the regular season champions with a record of 10-0 and won the ACC tournament for the 17th time in its 19-year history; and

Whereas, the women's soccer team completed the 2006 season with an overall record of 27-1-0, which included a 27-game winning streak, and finished the year ranked number one in all four major polls; and

Whereas, nine individuals were named to the Soccer All-America Team for 2006 and seven individuals were called up by the US Women's National team in preparation for the 2007 Four Nation's Tournament in Guangzhou, China; and

Whereas, over the span of 17 years, UNC has had 13 players named National Player of the Year, including April Heinrichs in 1984 and 1986, Kristine Lilly in 1990 and 1991, Mia Hamm in 1992 and 1993, and Yael Averbuch and Heather O'Reilly, both of whom were named National Player of the Year by competing polls in 2006; and

Whereas, Heather O'Reilly was a member of the 2004 US Olympic Gold Medal Team in Athens, Greece, and was the first player from the ACC to be awarded the National Soccer Coaches Association of America (NSCAA) Adidas Scholar Athlete of the Year honor; and

Whereas, other UNC soccer players with national and international exposure include 1996 Olympic Gold Medal Team members: Mia Hamm, Kristine Lilly, Cindy Parlow, Carla Overbeck, Tiffany Roberts, Tracy Noonan, Tisha Venturini, and Staci Wilson; and

Whereas, Anson Dorrance has served as the coach of the UNC women's soccer team since its inception and during his 28 years as coach has received numerous honors and awards for his contributions to the team and women's soccer; and

Whereas, in 2006, Coach Dorrance was named the National Soccer Coach of the Year for the fifth time and the ACC Coach of the Year; and

Whereas, Coach Dorrance was inducted into the North Carolina Sports Hall of Fame and was the recipient of the NSCAA's Walt Chyzowych Award for Lifetime Coaching Achievement; and

Whereas, Coach Dorrance also made contributions to women's soccer as the head coach of the US Women's Soccer Team in 1986; and

Whereas, assistant coach Chris Ducar also made valuable contributions during the 2006 season and was named the National Assistant Coach of the Year; and

Whereas, members of the women's soccer team should also be commended for being active participants in the community and serving as role models for young women soccer players across the State and nation; and

Whereas, these extraordinary accomplishments of the players and coaches of the women's soccer program bring great honor and distinction to the State of North Carolina and deserve recognition; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly expresses the appreciation and admiration of the people of North Carolina to the women's soccer team at the University of North Carolina at Chapel Hill for winning the 2006 NCAA National Soccer Championship and recognizes the achievements of team members: Yael Averbuch, Eva Baucom, Caroline Boneparth, Katie Brooks, Whitney Engen, Kristi Eveland, Kelly Esposito, Betsy Frederick, Robyn Gayle, Jaime Gilbert, Elizabeth Guess, Ariel Harris, Ashlyn Harris, Melissa Hayes, Ali Hawkins, Tobin Heath, Elizabeth Lancaster, Jessica Maxwell, Ashley Moore, Mandy Moraca, Casey Nogueira, Heather O'Reilly, Jennifer Perkins, Anna Rodenbough, Sterling Smith, Nikki Washington, and Julie Yates; head coach, Anson Dorrance; assistant coaches, Chris Ducar and Bill Palladino; team manager Tom Sander; and other staff members.

SECTION 2. The General Assembly honors the University of North Carolina at Chapel Hill women's soccer team, a North Carolina institution.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Athletic Director Dick Baddour and to head coach Anson Dorrance.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of February, 2007.

Resolution 2007-7 **Senate Joint Resolution 157**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ANNA PAULINE "PAULI" MURRAY, A DISTINGUISHED CIVIL RIGHTS LEADER, WRITER, LAWYER, FEMINIST, AND FORMER NORTH CAROLINIAN.

Whereas, Anna Pauline "Pauli" Murray, the granddaughter of a slave and the great-granddaughter of a slave owner, was born in Baltimore, Maryland, but later moved to Durham, North Carolina, at an early age to live with relatives after the death of her parents, William and Agnes Murray; and

Whereas, in 1926 Pauli Murray graduated in the top of her class at Hillside High School in Durham and in 1933 graduated with honors from Hunter College in New York, where she was one of four African-Americans in a class of more than 200 women; and

Whereas, Pauli Murray earned a law degree from Howard University in 1944, a masters degree in law from Boalt Law School at the University of California at Berkeley in 1945, and a Doctor of Juridical Science degree from Yale University in 1965, making her the first African-American to achieve this honor; and

Whereas, Pauli Murray held a number of positions throughout her career, including serving as a teacher in New York City, a deputy attorney general of California, a professor at Brandeis University, and a civil rights lawyer; and

Whereas, Pauli Murray was also an author and poet, publishing several books and articles, including "Proud Shoes: The Story of an American Family" and "States' Laws on Race and Color"; and

Whereas, Pauli Murray became a civil rights leader and feminist after a number of life experiences, including being denied admission to law school at the University of North Carolina at Chapel Hill in 1938 because of her race and to graduate school at Harvard University in 1944 because of her gender; and

Whereas, Pauli Murray participated in various civil rights demonstrations and served on President John F. Kennedy's Commission on the Status of Women Committee on Civil and Political Rights in the early 1960s; and

Whereas, Pauli Murray help found the National Organization for Women (NOW) in the early 1970s; and

Whereas, Pauli Murray became the first African-American woman in the United States to become an Episcopal priest after obtaining a Master in Divinity from the General Theological Seminary in 1976 and performed her first Holy Eucharist at the Chapel of the Cross in Chapel Hill in 1977; and

Whereas, the Orange County Human Relations Commission established the Pauli Murray Award in her honor in 1990; and

Whereas, Pauli Murray died on July 1, 1985, after leading a very distinguished life; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of Anna Pauline "Pauli" Murray for her accomplishments and her contributions to civil rights, the law, and the arts.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Anna Pauline "Pauli" Murray.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of February, 2007.

Resolution 2007-8 **House Joint Resolution 151**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF ZEBULON ON THE TOWN'S 100TH ANNIVERSARY.

Whereas, the Town of Zebulon can trace its early beginnings to 1906, when the Raleigh and Pamlico Sound Railroad Company brought rail service to the area; and

Whereas, on February 15, 1906, real estate developers Edgar B. Barbee and Falconer B. Arendell received a charter for the Zebulon Company and began dividing up their 49 acres into lots, blocks, streets, and avenues; and

Whereas, on February 16, 1907, the area consisting of 297.5 acres was officially recognized as the Town of Zebulon; and

Whereas, the Town was named for Zebulon B. Vance, who served as Governor of North Carolina during the Civil War; and

Whereas, Zebulon's first appointed officers were Mayor Joseph F. Fields and Commissioners Nathan L. Horton, J. Michael Whitley, Thomas F. Powell, William S. Horton, and J. Henry Bunn; and

Whereas, Zebulon's first elected officers were Mayor Thomas J. Horton and Commissioners Avon G. Kemp, William S. Horton, Nathan L. Horton, Thomas F. Powell, and Joseph F. Fields; and

Whereas, some of Zebulon's earliest businesses included the Whitley Hotel, the Town's first boardinghouse, and the Bank of Zebulon, the Town's first bank; and

Whereas, for many years, tobacco production was the most important industry in Zebulon; and

Whereas, Zebulon has continued to grow and prosper through the continued dedication, insight, and planning of the Town's concerned leaders and citizens; and

Whereas, currently Zebulon consists of 2,950 acres or 3.1 square miles; and

Whereas, Zebulon is known as "The Town of Friendly People" and is home to more than 4,600 people; and

Whereas, Zebulon's 100th anniversary is worthy of recognition and celebration; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the founders of the Town of Zebulon on the Town's 100th anniversary.

SECTION 2. The General Assembly joins the citizens of the Town of Zebulon in celebrating the Town's 100th Anniversary.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Zebulon.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of March, 2007.

Resolution 2007-9 **Senate Joint Resolution 389**

A JOINT RESOLUTION PROVIDING THAT THE GENERAL ASSEMBLY SHALL MEET IN GREENVILLE IN HONOR OF EAST CAROLINA UNIVERSITY'S CENTENNIAL ANNIVERSARY.

Whereas, the North Carolina Constitution states that the General Assembly may jointly adjourn to any other place; and

Whereas, the General Assembly has been invited to convene in Greenville on March 8, 2007, to commemorate East Carolina University's 100th anniversary; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. On March 8, 2007, the General Assembly shall convene at 10:30 A.M. in Greenville at East Carolina University in honor of the University's centennial anniversary.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of March, 2007.

Resolution 2007-10 **House Joint Resolution 435**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF INDIAN TRAIL ON THE TOWN'S CENTENNIAL ANNIVERSARY.

Whereas, the Town of Indian Trail, located in western Union County, has a rich history that began with the people who traveled along the colonial trading path between Petersburg, Virginia, and the Waxhaw Indian settlement; and

Whereas, Indian Trail's first post office was established on March 12, 1861, with Cyrus Stevens serving as the first postmaster; and

Whereas, the General Assembly ratified an act to incorporate the Town of Indian Trail on March 6, 1907; and

Whereas, the Town's charter provided that its first officers include J.F. Cander as mayor and J.T. Orr, S.H. Crowell, and D.J. Hemby as commissioners; and

Whereas, farming and gold production played a part in the Town's early economic success, and expansion of the railroad further contributed to the Town's early growth; and

Whereas, religion played a prominent role in the Town's history with the establishment of many excellent churches, including the Town's oldest church, Indian Trail United Methodist Church, which was founded in 1901; and

Whereas, education has also been of major importance in the Town with a number of exceptional schools within the Town's boundaries, including the oldest school, Indian Trail Elementary School, which was established in 1923; and

Whereas, Indian Trail has grown from 300 citizens in 1912 to more than 22,000 citizens today, becoming the second largest town in Union County; and

Whereas, the Town of Indian Trail has been and continues to be a valuable community within Union County with many fine citizens who have contributed to the development and the character of the Town throughout its existence; and

Whereas, plans have been made to celebrate the Town's historic anniversary throughout 2007, including a Centennial Celebration on March 10, 2007, at First Baptist Church of Indian Trail; and

Whereas, this occasion is worthy of celebration and should be enjoyed and supported by all North Carolinians; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the founders of the Town of Indian Trail and congratulates the Town on its centennial anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Indian Trail.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of March, 2007.

Resolution 2007-11 **Senate Joint Resolution 499**

A JOINT RESOLUTION HONORING THE WAKE FOREST UNIVERSITY FOOTBALL TEAM ON WINNING THE 2006 ATLANTIC COAST CONFERENCE CHAMPIONSHIP.

Whereas, on December 2, 2006, Wake Forest University's football team won the 2006 Atlantic Coast Conference (ACC) championship, defeating Georgia Tech by a score of 9-6 in Jacksonville, Florida; and

Whereas, this victory earned Wake Forest a berth in the Bowl Championship Series and a bid to the 2007 FedEx Orange Bowl; and

Whereas, Wake Forest was the first team from North Carolina to earn a berth in one of the top five bowls (Orange, Fiesta, Rose, Sugar, and Cotton) since 1961; and

Whereas, this championship gave Wake Forest its second ACC title, having won its first title in 1970; and

Whereas, Wake Forest finished the 2006 football season with an 11-3 record, shattering the previous school record of eight wins captured in 1944, 1979, and 1992; and

Whereas, Wake Forest's five wins in September 2006 marked the most victories in any month of the year in Demon Deacon football history; and

Whereas, Wake Forest won six ACC games for the first time in school history and won the ACC's Atlantic Division after being picked to finish last by the league's media in the preseason; and

Whereas, Wake Forest was the most improved team in America, based upon win differential; and

Whereas, Wake Forest was the first team in ACC history (out of 113) to go 6-0 in true road games; and

Whereas, Wake Forest swept its ACC Tobacco Road rivals – Duke University, the University of North Carolina at Chapel Hill, and North Carolina State University – for the first time since 1987; and

Whereas, Wake Forest shut out Florida State University in Tallahassee for the first time since 1959, snapping a 17-game losing streak; and

Whereas, Wake Forest was ranked in the top 25 for eight straight weeks; and

Whereas, head coach Jim Grobe was voted the National Coach of the Year by the Associated Press, American Football Coaches Association, the Bobby Dodd Foundation, and other media outlets; and

Whereas, sophomore placekicker Sam Swank and senior offensive tackle Steve Vallos were chosen as first team All-Americans; and

Whereas, junior linebacker Jon Abbate and senior safety Josh Gattis were named honorable mention All-Americans; and

Whereas, freshman quarterback Riley Skinner was voted the ACC's Rookie of the Year; and

Whereas, eight Wake Forest players earned All-ACC recognition from the league's voting body; and

Whereas, the entire football team and staff deserve recognition and congratulations for winning an ACC Championship and a berth in the FedEx Orange Bowl, which has brought great honor and distinction to the State; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly congratulates the Wake Forest University football team on winning the 2006 Atlantic Coast Conference Championship and recognizes the achievements of the players, coaches, students, alumni, and support staff who were instrumental in helping the football team have a successful 2006 season.

SECTION 2. The General Assembly honors the Wake Forest University's football team, a North Carolina institution.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to Wake Forest University President Nathan O. Hatch, Athletics Director Ron Wellman, and Head Coach Jim Grobe.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of March, 2007.

Resolution 2007-12 **House Joint Resolution 460**

A JOINT RESOLUTION HONORING EAST CAROLINA UNIVERSITY ON THE UNIVERSITY'S CENTENNIAL ANNIVERSARY.

Whereas, the people of North Carolina are deeply indebted to the North Carolina General Assembly of 1907 and other leaders of a century ago whose great vision created East Carolina Teachers Training School on March 8, 1907; and

Whereas, during the groundbreaking for the first building for the East Carolina Teachers Training School on July 2, 1908, Governor Thomas Jordan Jarvis, made the prophetic comment, "We can never begin to calculate the value it will be to North Carolina"; and

Whereas, East Carolina Teachers Training School opened its doors on October 5, 1909, with a faculty of seven women and three men and an enrollment of 104 women and 19 men; and

Whereas, Robert Herring Wright served as the school's first president; and

Whereas, on March 8, 1911, the General Assembly gave the school broader authority and flexibility with regards to its curriculum; and

Whereas, on June 8, 1911, the first graduating class received their diplomas; and

Whereas, in 1916, the school chose the colors of Old Gold and Royal Purple and the motto of "Servire," meaning "to serve"; and

Whereas, in 1920, the General Assembly amended the school's charter allowing for a four-year curriculum; and

Whereas, on December 19, 1921, the General Assembly enacted legislation changing the name of the school to East Carolina Teachers College and authorized the school to award the Bachelor of Arts degree in education; and

Whereas, in August 1922, East Carolina Teachers College conferred its first baccalaureate degrees, and in 1929, the school's trustees approved the awarding of the Master of Arts degree; and

Whereas, in 1951, the General Assembly approved a name change to East Carolina College to reflect the changing nature of the curriculum and the degrees awarded by the institution; and

Whereas, by the late 1950s, East Carolina College had become the State's third largest campus and was the fastest growing institution in North Carolina; and

Whereas, in the fall of 1963, the first full-time African-American student enrolled without incident at East Carolina College and graduated in 1966; and

Whereas, by 1967, East Carolina College had the largest college enrollment in the South and one of the largest enrollments in the nation; and

Whereas, legislation creating East Carolina University passed on June 29, 1967, creating an independent regional university in Greenville; and

Whereas, in 1972, East Carolina University became a constituent institution of The University of North Carolina system; and

Whereas, in 1974, the General Assembly gave approval of the establishment of a four-year medical school at East Carolina University, and in 1981, the first class of medical students graduated with Doctor of Medicine degrees; and

Whereas, in 1983, East Carolina University conferred its first Doctor of Philosophy degree; and

Whereas, in 1997, East Carolina University achieved status as a "Doctoral II" level institution; and

Whereas, East Carolina University has become the State's leader in distance education enrolling more than 5,000 students in distance education classes; and

Whereas, East Carolina University's online MBA and computer science degree programs were ranked number one nationally and its education degree program third by GetEducated.com, and all three degree programs were deemed "Best Buys" by the same group; and

Whereas, East Carolina University has the largest enrollment in several key professional programs in the State that address major State needs, including education, allied health, nursing, and hospitality management; and

Whereas, East Carolina University's arts program is one of the largest and most distinguished on the east coast and has produced a number of nationally recognized artists who have earned coveted awards, including Emmys and Grammys; and

Whereas, three East Carolina University graduates have either individually or as part of a group been awarded a Pulitzer Prize; and

Whereas, in April 2006, U.S. News and World Report ranked the Brody School of Medicine in the top 10 medical schools in the nation in three categories, including 6th in primary care, 7th in rural medicine, and 9th in family medicine; and

Whereas, East Carolina University ranks in the top 10 in five categories in the Milliken Institute report that scores universities around the world on technology transfer. For every $1 million in research, the university ranks 3rd in the number of patents issued, 6th in the number of inventions disclosed, 6th in the number of start-up companies formed, 8th in the number of patents filed, and 9th in the ratio of patents issued to patents filed. Among East Carolina University's best known inventions is the SpeechEasy device that helps stutterers speak more fluently; and

Whereas, East Carolina University's athletic department established a tradition of excellence beginning in 1941 when the football team finished its season with a record of 7-0 and was one of only 13 teams in the nation to go undefeated; and

Whereas, in 1966, the football team won its first conference championship as a member of the Southern Conference; and

Whereas, in 1990, the baseball team finished its season as the National Collegiate Athletic Association's statistical champion with a 47-9 record; and

Whereas, in 1993, the Pirates won their first national bowl game with a 37-34 victory over North Carolina State University during the Peach Bowl and earned a 9th place ranking in the nation; and

Whereas, East Carolina University became a member of Conference-USA for all intercollegiate sports, and in 2002, the baseball team claimed its first Conference-USA title; and

Whereas, each year more than 8,000 East Carolina University students contribute in excess of 100,000 hours of voluntary service to more than 125 community health and human service organizations located in Greenville; and

Whereas, East Carolina University's annual contribution to the local economy is approximately $2 billion; and

Whereas, for 100 years East Carolina University has held steadily to the ideals of academic integrity cherished by its founders, trustees, faculty, staff, alumni, and students; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly recognizes and honors the founders of East Carolina University for their vision, commends the University for its contributions to North Carolina and its people, extends congratulations on the institution's centennial anniversary, and looks forward to a second century of service by the University on behalf of the people of North Carolina and the nation.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the President of the Board of Governors of The University of North Carolina and to the Chancellor of East Carolina University.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of March, 2007.

Resolution 2007-13 **Senate Joint Resolution 253**

A JOINT RESOLUTION HONORING INDEPENDENCE HIGH SCHOOL ON HAVING AN OUTSTANDING FOOTBALL TEAM AND HONORING THE MEMORY OF DEVIN HOWARD.

Whereas, on December 9, 2006, the football team at Charlotte's Independence High School won the State's 4-AA Football Championship by defeating Durham's Riverside High School by a score of 49-19; and

Whereas, the Patriots earned a place in the history books by becoming the State's first public high school football team to win seven straight championships; and

Whereas, since September 2000, the Patriots have won 108 games in a row, which is a national public school record; and

Whereas, many Patriot players have been recognized for their individual efforts, including three players named to Parade Magazine's All-America team, two players selected as the North Carolina Gatorade players of the year, and players chosen for the Shrine Bowl team; and

Whereas, several former Patriots have played college-level football in the Atlantic Coast Conference, Southeastern Conference, and other conferences across the United States; and

Whereas, the Patriots owe much of their success during their outstanding 2006 season to head coach Tom Knotts who has been coaching football for 24 years and has a record of 259-55; and

Whereas, the achievements of Independence High School's football team is a fitting testimonial and memorial to the dedicated young men who have played for the team, including Devin Howard, who died in April of 2005 and had been selected as the defensive player of the year in the ME-CA 8 conference and as a member of the Charlotte Observer's All-Observer team and the All-State team in 2004; and

Whereas, the Patriots' successful football program has brought great honor and distinction to the State and deserves recognition; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly congratulates the Independence High School Patriots on winning the 2006 State 4-AA Football Championship and recognizes the achievements of the players, coaches, students, alumni, and support staff who were instrumental in helping the team succeed.

SECTION 2. The General Assembly honors the memory of Devin Howard for his contributions to football at Independence High School.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to the principal and head football coach at Independence High School and the family of Devin Howard.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of March, 2007.

Resolution 2007-14 **Senate Joint Resolution 674**

A JOINT RESOLUTION HONORING THE MEMORY OF WILLIAM PEACE, FOUNDER OF PEACE COLLEGE.

Whereas, William Peace (1773-1865) was a native North Carolinian from Granville County and a member of the second class of the University of North Carolina, a respected Raleigh merchant, and an educational proponent of the long-running Raleigh Academy and the University of North Carolina, and a founding elder of First Presbyterian Church of Raleigh; and

Whereas, in 1813 the General Assembly appointed William Peace and five other gentlemen to be City Commissioners to erect a dwelling for the Governor near the City of Raleigh; and

Whereas, in 1857, at the age of 84, William Peace donated $10,000 and eight acres of land in the heart of North Carolina's Capital City on which to establish a Presbyterian school for girls and young ladies; and

Whereas, because of his generous gift, the name Peace Institute was selected for the school; and

Whereas, Peace College has grown from a kindergarten and preparatory school to a baccalaureate college true to its original mission for women; and

Whereas, because of his initial gift, Peace College has graduated thousands of women who have led and are leading lives of purpose, contributing to the quality of this great State; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of William Peace and recognizes March 14, 2007, as William Peace Day in recognition of his enduring contributions.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to Laura Carpenter Bingham, the President of Peace College.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of March, 2007.

Resolution 2007-15 **House Joint Resolution 434**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF DENTON ON THE TOWN'S 100TH ANNIVERSARY.

Whereas, the Town of Denton, located in Davidson County, was formerly known as Finch's Crossroads until the late 1870s; and

Whereas, in 1877, Branson Ivey Harrison, a local school teacher, circulated a petition to have a post office established in the area; and

Whereas, after the rejection of several names for the new post office, local resident, Samuel Moses Peacock, recommended the name of Denton after reading about a town in Texas called Denton; and

Whereas, the post office opened on July 12, 1878, and Samuel M. Peacock served as the first postmaster; and

Whereas, in 1882, J.M. Daniel and B.I. Harrison established the area's first store which offered groceries, dry goods, and hardware to area residents; and

Whereas, in 1904, Milton L. Jones began construction of a railroad from Thomasville to Denton, and in 1906, the first passenger train began running; and

Whereas, on March 11, 1907, the General Assembly ratified a bill sponsored by Senator Wade H. Phillips to incorporate the Town of Denton; and

Whereas, the Town's charter provided that its first officers include J. Earl Varner as Mayor, B.I. Harrison, Arthur Davis, J.M. Daniel, L.A. Newsom, and Jesse C. Morris as commissioners, Dr. A. Anderson as the town physician, and John F. Carrol as the Chief of Police; and

Whereas, the early success of the Town was due in part to the expansion of the railroad which aided in distributing lumber and agricultural products produced in the Town and attracting new industry and citizens; and

Whereas, the Town has continued to grow and prosper through the continued dedication, insight, and planning of its concerned leaders and citizens; and

Whereas, 2007 marks Denton's 100th anniversary, and plans have been made to celebrate the Town's centennial; and

Whereas, this occasion is worthy of celebration and should be enjoyed and supported by all North Carolinians; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the founders of the Town of Denton and joins the citizens of Denton in celebrating the Town's 100th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Denton.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of March, 2007.

Resolution 2007-16 **Senate Joint Resolution 225**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENTS OF EDWARD S. FINLEY, JR. AND SAMUEL JAMES ERVIN, IV TO THE UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, vacancies have occurred on the North Carolina Utilities Commission due to the resignation of Jo Anne Sanford and the expiration of the term of Samuel James Ervin, IV; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the names of his appointees to the North Carolina Utilities Commission, Edward S. Finley, Jr. to serve the remainder of the term of Jo Anne Sanford expiring June 30, 2011, and Samuel James Ervin, IV to a new term beginning July 1, 2007, and expiring June 30, 2015; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The appointment of Edward S. Finley, Jr. to the North Carolina Utilities Commission for the remainder of the term expiring June 30, 2011, is confirmed.

SECTION 2. The appointment of Samuel James Ervin, IV to the North Carolina Utilities Commission for a new term beginning July 1, 2007, and expiring June 30, 2015, is confirmed.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of March, 2007.

Resolution 2007-17 **House Joint Resolution 321**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERIC SCHOPLER, A PIONEER IN THE TREATMENT OF AUTISM.

Whereas, Eric Schopler was born on February 8, 1927, in Furth, Germany, to Ernst Schopler and Erna Oppenheimer Schopler; and

Whereas, Eric Schopler and his family moved to the United States in 1938; and

Whereas, Eric Schopler grew up in Rochester, New York, and, after graduating from high school, served in the United States Army; and

Whereas, Eric Schopler completed his education at the University of Chicago, earning a bachelors degree in 1949, a masters degree in social service administration in 1955, and a doctorate degree in clinical child psychology in 1964; and

Whereas, Eric Schopler's early career included serving as a family counselor in Rochester, New York, from 1955 to 1958, as the Acting Chief Psychiatric Social Worker at the Emma P. Bradley Hospital in Providence, Rhode Island, from 1958 to 1960, and as a therapist and investigator for the Treatment and Research Center for Childhood Schizophrenia in Chicago from 1960 to 1964; and

Whereas, Eric Schopler served on the faculty of the Department of Psychiatry at the University of North Carolina at Chapel Hill's School of Medicine from 1964 to 2005; and

Whereas, during his tenure in the Department of Psychiatry, Eric Schloper served as an associate professor from 1966 to 1973, as a professor from 1973 to 2005, as the Director of the Child Research Project from 1966 to 1972, as the Chief Psychologist from 1987 to 1999, and as an Associate Chair for Developmental Disabilities from 1992 to 1996; and

Whereas, Eric Schopler's interest and research in autism led to the development of the first statewide program for the treatment of autism known as Division TEACCH (Treatment and Education of Autistic and related Communication-handicapped Children), which continues to serve as a model for autism treatment programs around the world; and

Whereas, Eric Schopler served as co-director of Division TEACCH from 1972 to 1976 and as director from 1976 to 1993; and

Whereas, Eric Schopler wrote more than 200 books and articles on autism spectrum disorders and served as the Editor of the Journal of Autism and Developmental Disorders and as a member of the editorial board of the Early Childhood Special Education, Schizophrenia Bulletin; and

Whereas, Eric Schopler was a member of numerous professional organizations, including the American Association for the Advancement of Science, American Association on Mental Deficiency, and the Society for Research in Child Development; and

Whereas, Eric Schopler served on the advisory board of Bitter Sweet Farms, Toledo, Ohio; Linwood Children's Center, Inc., Ellicott, Maryland; Autism Society of North Carolina, Inc.; and the Autism Society of America; and

Whereas, Eric Schopler received countless honors and awards for his work, including the American Psychiatric Association's Gold Achievement Award for Child Research Project in 1972, the University of North Carolina at Chapel Hill's O. Max Gardner Award for contributions to human welfare in 1985, the North Carolina Award in 1993, the American Psychological Association's Award for Distinguished Contributions to the Advancement of Knowledge and Service in 1997, the Autism Society of North Carolina's Lifetime Achievement Award in 2005, and the American Psychological Foundation's Gold Medal for Life Achievement in the Application of Psychology in 2006; and

Whereas, Eric Schopler died on July 7, 2006, leaving to mourn his loss, his wife, Margaret Schopler; three children, Bobby, Tom, and Susie; and seven grandchildren; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of Eric Schopler and expresses its appreciation for his invaluable contributions to autism research and treatment.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Eric Schopler for the loss of a distinguished family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Eric Schopler.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of March, 2007.

Resolution 2007-18 **Senate Joint Resolution 194**

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENT OF JOSEPH A. SMITH, JR. AS COMMISSIONER OF BANKS.

Whereas, under provisions of G.S. 53-92, appointment by the Governor of the Commissioner of Banks is subject to confirmation by the General Assembly by joint resolution; and

Whereas, the term of the present Commissioner of Banks will end on March 31, 2007; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the name of his appointee to fill the term of Commissioner of Banks which will begin April 1, 2007, and expire March 31, 2011; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The appointment of Joseph A. Smith, Jr. as Commissioner of Banks for a term expiring March 31, 2011, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of March, 2007.

Resolution 2007-19 **Senate Joint Resolution 1556**

A JOINT RESOLUTION RECOGNIZING THE MEN'S BASKETBALL TEAM AT BARTON COLLEGE ON BECOMING THE 2007 NCAA DIVISION II NATIONAL CHAMPIONS.

Whereas, the men's basketball program at Barton College in the City of Wilson warrants recognition and a commendation for its outstanding achievements; and

Whereas, on March 24, 2007, the Bulldogs won the NCAA Division II National Championship by defeating the defending national champion Winona State by

a score of 77-75, ending the top-ranked and undefeated Warriors' Division II record win streak at 57 games; and

Whereas, this championship was the first NCAA title for Barton College in any sport; and

Whereas, the men's basketball team finished in the Carolinas-Virginia Athletics Conference (CVAC) season as the regular season champions and as the conference tournament champions for the second straight year; and

Whereas, the Bulldogs set several school records during its 2006-2007 season achieving a 19-1 CVAC record, winning 21 straight games, and posting an overall record of 31-5; and

Whereas, the Bulldogs went an unbelievable 9-0 in overtime games, setting the all-time, all-divisions NCAA record for OT games played and OT games won; and

Whereas, on the road to the National Championship, Barton College with a full-time enrollment of 925 students defeated a number of teams with much larger student enrollments, including Grand Valley State with 23,000 students, California State San Bernardino with 17,000 students, and Winona State with 8,000 students; and

Whereas, several individual team members were recognized for their efforts during the year including, Wilson native and senior point guard, Anthony Atkinson, who was named the CVAC Player of the Year, CVAC Tournament MVP, East Regional Tournament MVP, and the NCAA Division II Elite Eight MVP, and voted a first-team All-American; and

Whereas, Anthony Atkinson scored the game-winning points during the last possession of all three of Barton's Elite Eight victories, including the final 10 points in the last 39 seconds of the National Championship game; and

Whereas, head coach Ron Lievense has coached the Bulldogs for 11 years and was named the 2007 CVAC Coach of the Year, his fourth title; and

Whereas, the success of the men's basketball program along with the many academic achievements of the students is part of a long-standing tradition of excellence at Barton College, formerly Atlantic Christian College, which in 1990, was renamed in honor of Barton W. Stone; and

Whereas, these extraordinary accomplishments of the players and coaches of the men's basketball program bring great honor and distinction to the State of North Carolina and deserve recognition; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly expresses the appreciation and admiration of the people of North Carolina to the men's basketball team at Barton College for winning the 2007 NCAA Division II National Basketball Championship and recognizes the achievements of team members: Anthony Atkinson, Alejo Barovero, Spenser Briggs, Bobby Buffaloe, Jeff Dalce, L.J. Dunn, Jarrett Eason, Mike Flowers, Errol Frails, Mark Friscone, Charles Gamble, Travis Johnson, David King, Brian Leggett, Bobby McNeil, Sam Pounds, and Brandon Raffel; head coach Ron Lievense, assistant coaches Joel Zimmerman, John Skinner, and Mark Pounds; and other staff members.

SECTION 2. The General Assembly honors the memory of the founders of Barton College for their vision and contributions to the State of North Carolina.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to President Dr. Norval C. Kneten, Athletic Director Gary W. Hall, and Head Coach Ron Lievense.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of April, 2007.

Resolution 2007-20 **House Joint Resolution 523**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF RUTH MOSS EASTERLING, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Ruth M. Easterling was born in Gaffney, South Carolina, on December 26, 1910, to Benjamin Harrison Moss and Lillie Mae Crawley Moss; and

Whereas, Ruth M. Easterling graduated from Centralized High School in Blacksburg, South Carolina in 1929, received a bachelors degree in English from Limestone College in Gaffney, South Carolina, in 1932, and later took additional courses at Queens College in Charlotte, North Carolina; and

Whereas, Ruth M. Easterling was married to Claude Easterling; and

Whereas, Ruth M. Easterling served as the Executive Assistant to I.D. Blumenthal, President of the Radiator Specialty Company in Charlotte from 1947 to 1978 and continued to work part-time for the company until her death; and

Whereas, Ruth M. Easterling was one of the first women to pass the Certified Professional Secretary exam in 1953 and served as President of the Charlotte, State, and National chapters of Business and Professional Women; and

Whereas, Ruth M. Easterling served as director of Wildacres Retreat between 1964 and 1974 and later served as a trustee for the organization; and

Whereas, Ruth M. Easterling was a proud and steadfast Democrat all her life, faithfully and effectively serving her party in many capacities; and

Whereas, Ruth M. Easterling was appointed to fill a vacant seat on the Charlotte City Council in 1972 and served in that position until 1973; and

Whereas, Ruth M. Easterling served as President of the North Carolina Women's Political Caucus in 1974; and

Whereas, Ruth M. Easterling was elected to the North Carolina House of Representatives in 1976, serving with honor and distinction for 13 terms between 1977 and 2002; and

Whereas, during her tenure in the General Assembly, Ruth M. Easterling was an advocate for women, children, health care, and education; she sponsored legislation recommended by the Child Fatality Task Force and vigorously defended Smart Start initiatives and funding; and

Whereas, Ruth M. Easterling was one of the first female legislators to serve as cochair of the Appropriations Committee and was an effective member of several committees including Human Resources, Judiciary I, Children and Youth, and Local and Regional Government, Pensions and Retirement, Public Health, and State Personnel; and

Whereas, Ruth M. Easterling also contributed as a member of the Joint Legislative Commission on Governmental Operations, the Legislative Services Commission, and the Human Resources Committees of the Southern Legislative Conference; and

Whereas, Ruth M. Easterling served four years as the Chair of the Legislative Women's Caucus and as the Chair of the Mecklenburg County Delegation; and

Whereas, Ruth M. Easterling was named the sixth most influential legislator by the North Carolina Center for Public Policy and Research during her last term in office, the highest ranking ever for a female legislator; and

Whereas, during her lifetime, Ruth M. Easterling received numerous honors and awards and most recently received the Distinguished Women in Government Award by the North Carolina Council for Women in 1993, the Legislative Award by the Covenant with North Carolina's Children in 1999, which was renamed the Ruth Easterling House Award, the Order of the Long Leaf Pine by Governor James B. Hunt in 1999, the Women of Achievement Award by the General Federation of Women's Club in 2002, the "Hero" Award by the North Carolina Children's Fatality Task Force, the Distinguished Service to Education by the North Carolina Association of Educators in 2002, and a Lifetime Achievement Award by the North Carolina Council of the Girl Scouts of America in 2005; and

Whereas, Ruth M. Easterling was awarded an Honorary Doctor of Public Service from Limestone College in 1999, and an Honorary Doctor of Laws from the University of North Carolina at Charlotte in 2001; and

Whereas, Ruth M. Easterling was active in many professional and civic organizations, including the Women's Equity Action League, Women Executives of Charlotte, Women's Forum of North Carolina, League of Women Voters, and American Association of University Women; and

Whereas, Ruth M. Easterling joined the First Baptist Church in Charlotte in 1947, where she served as a Sunday school teacher, associate superintendent of the Intermediate Sunday School Department, chair of the Evening Division of women's Missionary Society and on the Library and Finance Committees; and

Whereas, Ruth M. Easterling died on November 1, 2006, at the age of 95; and

Whereas, Ruth M. Easterling is survived by a sister, Ruby Francina Moss, along with many nieces and nephews and other relatives; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Ruth M. Easterling and expresses its appreciation for her contributions to the State of North Carolina.

SECTION 2. The General Assembly expresses its deepest sympathy to the family of Ruth M. Easterling for the loss of its distinguished family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Ruth M. Easterling.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of April, 2007.

Resolution 2007-21 **Senate Joint Resolution 1557**

A JOINT RESOLUTION EXPRESSING THE PROFOUND REGRET OF THE NORTH CAROLINA GENERAL ASSEMBLY FOR THE HISTORY OF WRONGS INFLICTED UPON BLACK CITIZENS BY MEANS OF SLAVERY, EXPLOITATION, AND LEGALIZED RACIAL SEGREGATION AND CALLING ON ALL CITIZENS TO TAKE PART IN ACTS OF RACIAL RECONCILIATION.

Whereas, Article 1, Section 1, of the Constitution of North Carolina, in concert with the American Declaration of Independence, proclaims, "We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness"; and

Whereas, involuntary servitude, as practiced within the borders of North Carolina in the 17th, 18th, and 19th centuries, violated the precept that all persons are created equal and denied thousands and thousands of people of liberty, of the pursuit of happiness, of the ability to benefit from their own work, and, in many cases, of life itself; and

Whereas, the practice of slavery was embedded in constitutional provisions and laws enacted by predecessors to this General Assembly and other civil authorities of North Carolina; and

Whereas, the practice of slavery began shortly after the founding of the British Colony of Carolina, with a 1669 constitution that provided land to white colonists according to the level of their holdings in slaves and free black employees, 20 acres per black male and 10 acres per black female; and

Whereas, even though North Carolina did not have as extensive a plantation system as other states in the American South, slavery had become entrenched in the State by the time of the American Revolution, so that at the founding of the United States three out of 10 North Carolina families owned slaves; and

Whereas, North Carolina took legal actions to deny freedom to black people, including an 1826 law that prohibited free blacks from entering the State, an 1830 law that prohibited anyone from teaching a slave to read or write, and a provision of the 1835 Constitution denying free blacks the right to vote; and

Whereas, even as slaves engaged in back-breaking physical labor, endured squalid housing, and saw their families broken apart as spouses and children were sold from one owner to another, black men and women cultivated tobacco, cotton, and other crops in a largely agricultural state, built essential public facilities, and contributed to the creation and accumulation of wealth; and

Whereas, by the time of the American Civil War, North Carolina was home to 330,000 slaves, one-third of the State's population, and North Carolina joined the forces that fought to preserve a region and a society that had slavery as a defining characteristic; and

Whereas, in the aftermath of the Emancipation Proclamation and during the period known as Reconstruction, black residents of North Carolina not only gained legal freedom but also participated more directly in the public life of the State, to the extent that 20 black legislators were elected in 1868 to the General Assembly, and blacks continued to serve in State and local offices through the remainder of the 19th century; and

Whereas, at the outset of the 20th Century, North Carolina enacted laws that prevented black citizens from participating fully in a democratic society, including a 1900 amendment that denied black citizens the right to vote and the segregation of black and white citizens into separate and unequal public schools; and

Whereas, as a result of dire economic and social conditions, black North Carolinians joined the "Great Migration" from the South to the North in the first half of the 20th Century, so that more than 270,000 people left the State between 1910 and 1950; and

Whereas, despite the legacies of slavery and the imposition of laws that segregated blacks and whites in schools, public facilities, and in civic life, black North Carolinians persisted in faith and in hope for a better life, in their yearnings to participate fully in the economic and democratic life of their State and country; and

Whereas, North Carolina should celebrate the entrepreneurship of black citizens in building nationally recognized businesses; the founding and sustaining of colleges and universities that historically served black students; the many black North Carolinians who have provided leadership in education, law, civil rights, and governance to the State and nation; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly issues its apology for the practice of slavery in North Carolina and expresses its profound contrition for the official acts that sanctioned and perpetuated the denial of basic human rights and dignity to fellow humans.

SECTION 2. The General Assembly urges schools, colleges, and universities, religious and civic institutions, businesses and professional associations to do all within their power to acknowledge the transgressions of North Carolina's journey from a colony to a leading State, to learn the lessons of history in order to avoid repeating mistakes of the past, and to promote racial reconciliation.

SECTION 3. The General Assembly calls on all North Carolinians to recommit their State, their communities, and themselves to the proclamation of their nation's Declaration of Independence and their State Constitution that "all persons are created equal and endowed by their Creator with certain inalienable rights" – to work daily to treat all persons with abiding respect for their humanity and to eliminate racial prejudices, injustices, and discrimination from our society.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of April, 2007.

Resolution 2007-22 **House Joint Resolution 1318**

A JOINT RESOLUTION HONORING SOUTH VIEW HIGH SCHOOL ON HAVING AN OUTSTANDING GIRL'S BASKETBALL TEAM AND HONORING THE MEMORY OF BRENDA JERNIGAN, THE TEAM'S FORMER COACH.

Whereas, Hope Mills' South View High School won the North Carolina High School Athletic Association's (NCHSAA) 4-A Girl's State Championship on March 10, 2007, defeating Greensboro's Grimsley High School by a score of 69-64, at the Dean Smith Center in Chapel Hill; and

Whereas, South View's Lady Tigers went undefeated during their 2006-2007 season finishing with an outstanding record of 32-0, the only varsity basketball team in the State to achieve such a record and the only girl's 4-A team to go undefeated since playing on neutral sites beginning in 1987; and

Whereas, the Lady Tigers were also named the Two Rivers Conference regular season champions, the Two Rivers Conference Tournament champions, the Wilmington Tournament of Jewels champions; and

Whereas, the Lady Tigers finished the season ranked No. 1 in NCPreps State polls among 4-A schools and in MaxPreps polls among all schools; and

Whereas, the Lady Tigers have also excelled in the classroom with a cumulative team GPA of 3.1; and

Whereas, the Lady Tigers owe much of their success during their exceptional season to head coach Brent Barker who has amassed a record of 279-77 in his 13 years at South View; and

Whereas, the achievements of the girl's basketball team at South View High School is a fitting testimonial and memorial to the late Brenda Jernigan, a former outstanding basketball player for Central High School in Cumberland County who served as the former coach for the Lady Tigers leading the team to two State playoff appearances in the 1970s and earning 200 career wins before stepping down as the coach in 1996; and

Whereas, the Lady Tigers' successful basketball program has brought great honor and distinction to the State and deserves recognition; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly congratulates the South View High School Lady Tigers on winning the 2006 NCHSAA 4-A Girl's State Basketball Championship and recognizes the achievements of the players: Amber Calvin, Nikoll Wilson, Samantha Ramirez, Whitney Jordon, Ta'nele Walker, Tyffani Fenwick, Rakhee Smith, Debrisha Morris, Amanda Morrill, Jasmine Price, Angelica Rodriguez, and Brittany Wade; head coach Brent Barker; assistant coaches Nattlie McArthur and Faye Corbin; manager Twanna Willis; parents; and fans who were instrumental in helping the team succeed.

SECTION 2. The General Assembly honors the memory of Brenda Jernigan for her contributions to the girl's basketball program at South View High School.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the principal, Robert Barnes, of South View High School and to the family of Brenda Jernigan.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of April, 2007.

Resolution 2007-23 **Senate Joint Resolution 1489**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF MOREHEAD CITY BY COMMEMORATING THE ONE HUNDRED FIFTIETH ANNIVERSARY OF THE SHEPARD'S POINT LAND PURCHASE.

Whereas, the Town of Morehead City is named for Governor John Motley Morehead, who envisioned a "great commercial city"; and

Whereas, in the 1850s the Shepard's Point Land Company purchased 600 acres of land on the tip of the eastern peninsula that is now the site of Morehead City; and

Whereas, in 1857, a public auction was held, which sold 150 lots in Morehead City; and

Whereas, the last stop of the Atlantic and North Carolina Railroad was constructed in Shepard's Point, which connected Morehead City to the rest of North Carolina; and

Whereas, three days after the completion of the railroad in 1858, every property parcel in Morehead City and the surrounding area was sold; and

Whereas, on February 20, 1861, the Town of Morehead City, originally known as the City of Morehead, was officially incorporated by the North Carolina General Assembly; and

Whereas, Morehead City's first officers included Bridges Arendell, Jr. as Mayor and David S. Jones, J.W. Collins, and William H. Cunningham, Jr. as Commissioners; and

Whereas, in 1862, the War Between the States disrupted commerce and the port declined along with the town's population when Morehead City was occupied by Union troops; and

Whereas, Morehead City began to rebound in the 1880s with the completion of the Atlantic Hotel, which had a train depot entrance, grand ballroom, piers, sailing and ferry services to the beaches of Bogue Banks luring tourists to the area and helping establish Morehead City as the "Summer Capital by the Sea"; and

Whereas, the great hurricane of 1899, forced fishermen from nearby Shackleford Banks, Diamond City, and other fishing settlements to move their houses onto the mainland in the area they called the "Promised Land"; and

Whereas, the advent of available ice made shipping of fish, produce from nearby farms, and other products by rail to outside markets very effective; and

Whereas, the railroad remained important to Morehead City in the 20th century for businesses and individuals; and

Whereas, even today, the railroad plays an important role in keeping the port busy with shipments by rail to send abroad; and

Whereas, until service ended in 1950, the railroad passenger service encouraged the tourist business of Morehead City and Atlantic Beach; and

Whereas, Morehead City is situated on North Carolina's "Crystal Coast" and is home to one of the State's two seaports; and

Whereas, Morehead City is also home to Carteret Community College, as well as research institutes operated by the University of North Carolina at Chapel Hill, North Carolina State University, and Duke University; and

Whereas, Morehead City is the largest town in Carteret County with a population of over 7,800 residents; and

Whereas, in May 2007, Morehead City will commemorate the anniversary of the Shepard's Point Land Purchase and celebrate 150 years of culture and heritage; and

Whereas, plans have been made to celebrate the Town's sesquicentennial throughout the month of May, including a Sesquicentennial Celebration Week, May 12 through 19, 2007; and

Whereas, Morehead City's 150th anniversary is worthy of recognition and celebration; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of the founders of the Town of Morehead City on the Town's 150th anniversary.

SECTION 2. The General Assembly joins the citizens of the Town of Morehead City in celebrating the Town's 150th anniversary.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Morehead City.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of April, 2007.

Resolution 2007-24 **House Joint Resolution 190**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE CITY OF ALBEMARLE ON THE CITY'S 150TH ANNIVERSARY.

Whereas, the City of Albemarle, the County Seat of Stanly County, celebrated 150 years of incorporation on February 2, 2007; and

Whereas, the City of Albemarle was named for George Monck, the First Duke of Albemarle and one of the eight Lords Proprietors of the Carolina Charter of 1663; and

Whereas, Mrs. Nancy Almond Hearne donated 50 acres for the founding of Albemarle to establish the County seat; and

Whereas, Albemarle began as a bucolic farming community and later became one of the most significant textile manufacturing communities in North Carolina; and

Whereas, the citizens of Albemarle have made significant contributions to the social, cultural, political, and economic prosperity of the State of North Carolina; and

Whereas, Albemarle has continued to grow and prosper through the continued dedication, insight, and planning of the City's concerned leaders and citizens; and

Whereas, this occasion is worthy of celebration and should be enjoyed and supported by all North Carolinians; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the founders of the City of Albemarle and congratulates the City on its 150th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of Albemarle.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of April, 2007.

Resolution 2007-25 **House Joint Resolution 1380**

A JOINT RESOLUTION HONORING THE ELIZABETH CITY STATE UNIVERSITY BASKETBALL TEAM ON WINNING THE 2007 CENTRAL INTERCOLLEGIATE ATHLETIC ASSOCIATION (CIAA) BASKETBALL CONFERENCE CHAMPIONSHIP.

Whereas, on March 3, 2007, the Elizabeth City State University's (ECSU) men's basketball team won the 2007 Central Intercollegiate Athletic Association Conference (CIAA) Men's Basketball Championship defeating Virginia Union University by a score of 63-60 in Charlotte, North Carolina; and

Whereas, this victory marked ECSU's first championship in 26 years after having wins in 1981 and 1969; and

Whereas, the ECSU men's basketball team arrived at the conference tournament with a 12-15 record as the 7th seed, thus becoming the lowest seeded team to ever win the CIAA Championship; and

Whereas, ECSU defeated four teams, Livingstone College of Salisbury, North Carolina; regionally ranked Virginia State University of Petersburg, Virginia; Bowie State University of Bowie, Maryland; and three-time defending CIAA champions and nationally ranked Virginia Union University of Richmond, Virginia, to achieve this championship milestone; and

Whereas, Head Coach Shawn Walker, a fifth-year coach and ECSU alumnus, emerged as a leader, thereby raising his stock as an "up and coming" basketball head coach; and

Whereas, All-CIAA sophomore guard Anthony Hilliard achieved the tourney's MVP and All-CIAA senior center C.J. Pigford and Jabyron Wilson were voted to the All-Tournament Team; and

Whereas, the entire Viking basketball squad, Mike Land, Anthony Hilliard, Brian West, Anthony Butler, Lansen Leach, Olajuwon Johnson, Devin Mooring, Demond Hickman, Jamal Rouse, Trent Bivens, Wallace Sam, C.J. Pigford, Jabyron Wilson, and Shakiem Mitchell, through solid teamwork and quiet resolve out-performed all of their opponents; and

Whereas, the ECSU Vikings received the John B. McLendon Sportsmanship Trophy and the CIAA Team Academic Award recognition for having the highest grade point average (GPA) of all CIAA men's basketball teams demonstrating their well-roundedness as student athletes; and

Whereas, assistant coaches, Alico Dunk, Cleveland Blount, and John Hill contributed significantly to the success of the team; and

Whereas, the success of the men's basketball program along with the many academic achievements of the students is part of a long-standing tradition of excellence at ECSU and a fitting memorial to Dr. Marion D. Thorpe, who presided over the University during its first two CIAA championships in 1968 and 1981; and

Whereas, Dr. Marion D. Thorpe was a devoted leader of ESCU for almost 15 years, having served as the University's President from 1968 to 1972, and as the University's first Chancellor beginning on July 1, 1972, when the University became one of the 16 constituent institutions of The University of North Carolina. Dr. Thorpe died on April 28, 1983; and

Whereas, the entire basketball team and staff deserve accolades for winning the 2007 CIAA Basketball Tournament, which has brought unprecedented recognition to Elizabeth City State University, The University of North Carolina, and northeastern North Carolina; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses the appreciation and admiration of the people of North Carolina to the men's basketball team at Elizabeth City State University for winning the 2007 CIAA Basketball Championship and recognizes the achievements of the team, head coach, assistant coaches, and other staff members.

SECTION 2. The General Assembly honors the memory of Dr. Marion D. Thorpe for leadership of Elizabeth City State University and his contributions to the University's students, faculty, and alumni.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Elizabeth City State University's Chancellor Willie J. Gilchrist, Interim Athletic Director Thurlis J. Little, and the family of Dr. Marion D. Thorpe.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of April, 2007.

Resolution 2007-26 **Senate Joint Resolution 866**

A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Wednesday, April 25, 2007. At that time the Senate shall elect one member to the State Board for a term of six years beginning July 1, 2007. The House of Representatives shall also elect one member to the State Board for a term of six years beginning July 1, 2007.

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of April, 2007.

Resolution 2007-27 **House Joint Resolution 828**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF FRANKLIN THOMAS "FRANK" TADLOCK, FORMER COMMISSIONER OF ROWAN COUNTY.

Whereas, Franklin Thomas "Frank" Tadlock was born on April 19, 1936, to Vernon Preston Tadlock and Minnie Evans Tadlock in Pageland, South Carolina; and

Whereas, Frank Tadlock attended Landis High School and graduated from Burton's Institute in Charlotte, and also attended Rowan-Cabarrus Community College and Catawba College; and

Whereas, Frank Tadlock served as President of Corriher Beef and Sausage for more than 20 years; and

Whereas, Frank Tadlock was admired and respected by the members of his profession serving as President of the North Carolina Meat Processors, and in 1989 was elected to serve on the board of directors of the American Association of Meat Processors and in 1992 was elected President of the American Association of Meat Processors; and

Whereas, in November 1996, Frank Tadlock was appointed to fill a vacancy on the Rowan County Board of Commissioners and in November 2002 was elected to a four-year term on the Board of Commissioners; and

Whereas, in 2003, Frank Tadlock was elected as Vice-Chair of the Board of Commissioners and in December 2004 was elected as Chair of the Board; and

Whereas, during his tenure on the Board of County Commissioners, Frank Tadlock was instrumental in establishing the South Rowan Library and, in October of 2006, the library was renamed in his honor as the "Frank T. Tadlock South Rowan Library"; and

Whereas, Frank Tadlock's other public service included serving as Chair of the Rowan Social Services Board and as a member of the Rowan County Alcoholic Beverage Control Board; and

Whereas, Frank Tadlock was an active supporter of the South Rowan YMCA and was honored in 1994 for his role in helping to raise more than $3 million to build the organization a new facility; and

Whereas, Frank Tadlock was a longtime member of the First Reformed Church in Landis and served the Church in many capacities, including as an elder, deacon, and Sunday school superintendent; and

Whereas, Frank Tadlock died on January 2, 2007, at the age of 70; and

Whereas, Frank Tadlock is survived by his wife Linda Sue Corriher Tadlock; his sons: Jon and wife Lisa, Carl and his wife Laura, and Brian and his wife Lisa; and five grandchildren; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Franklin Thomas Tadlock and expresses its gratitude and the appreciation of this State and its citizens for his life and service.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Franklin Thomas Tadlock for the loss of a beloved family member.

SECTION 3 The Secretary of State shall transmit a certified copy of this resolution to the family of Franklin Thomas Tadlock.

SECTION 4 This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of May, 2007.

Resolution 2007-28 **Senate Joint Resolution 931**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF STATE SENATOR ROBERT L. HOLLOMAN.

Whereas, Robert L. Holloman was born on February 15, 1953, in Hertford County to Daraious and Beatrice Vaughn Holloman; and

Whereas, Robert L. Holloman graduated from the Divinity School at Shaw University in Raleigh, North Carolina, and furthered his education at Florida College and Seminary in Orlando, Florida, and Liberty University in Lynchburg, Virginia; and

Whereas, for many years, Robert L. Holloman served as a Regional Manager for the North Carolina Division of Victim and Justice Services under the Department of Crime Control and Public Safety; and

Whereas, Robert L. Holloman served as Pastor of the Nebo Missionary Baptist Church in Murfreesboro, North Carolina, for 22 years and as the Moderator of the Northampton County Baptist Association; and

Whereas, Robert L. Holloman rendered distinguished service to his community as a member of the Board of County Commissioners in Hertford County from 1992 to 1996 and 2000 to 2003, the first African-American Chair of the

Democratic Party in Hertford County, Chair of the Board of Directors of the Hertford County Department of Social Services, Chair of the Winton Housing Board, and as a member of the Board of Trustees of Roanoke Chowan Community College and the Board of Directors of the Choanoke Area Development Association which served Bertie, Halifax, and Hertford Counties; and

Whereas, Robert L. Holloman served the people of Gates, Halifax, Hertford, Northampton, Warren, and Vance Counties as a member of the State Senate from 2003 to 2006; and

Whereas, during his tenure in the General Assembly, Senator Robert L. Holloman served as Cochair of the State and Local Government Committee and Vice-Chair of the Appropriations Subcommittee on Justice and Public Safety, and as a member of numerous other committees including Judiciary II, Opportunities and Needs for Economic Growth in North Carolina, Senate Information Technology, Pensions, Retirement and Aging, Select Committee on Insurance and Civil Justice Reform; and

Whereas, Senator Robert L. Holloman also made contributions as a member of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, Governor's Crime Commission, Joint Hurricane Evacuation Standards Study Commission, Joint Select Committee on Workforce Needs, and the Senate Select Committee on Redistricting; and

Whereas, Senator Robert L. Holloman was a member of several fraternal organizations, including the Assemblies of North Carolina and Virginia and the Benevolent Lodge of North Carolina, and served as the Past District Deputy Grand Master of the Eighth Masonic District for Bertie, Hertford, and Gates Counties; and

Whereas, Senator Robert L. Holloman received numerous awards and honors, including an Honorary Doctor of Divinity from Florida College and Seminary; and

Whereas, Senator Holloman died on January 8, 2007; and

Whereas, Senator Robert L. Holloman is survived by his wife, Velma Murphy Holloman, his daughter, Jacqueline Denise, a grandson, Keenen Jamal, sisters Mary Beasley, Nellie Holland, Diann Craft, and brothers Edward Holloman and Jesse Holloman; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Senator Robert L. Holloman and expresses the appreciation of this State and its citizens for the service he rendered.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Senator Robert L. Holloman for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Senator Robert L. Holloman.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of May, 2007.

Resolution 2007-29 **House Joint Resolution 491**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HOWARD J. HUNTER, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Howard J. Hunter, Jr. was born in the City of Washington, D.C., on December 16, 1946, to Howard J. Hunter, Sr. and Madge Watford Hunter; and

Whereas, Howard J. Hunter, Jr. graduated from C.S. Brown High School in Winton, North Carolina, in 1964 and earned a bachelor's degree from North Carolina Central University in 1971; and

Whereas, Howard J. Hunter, Jr. served as Vice President, Director, Partner/Owner of Hunter's Funeral Home, Inc., of Ahoskie and Murfreesboro, North Carolina, and was a member of the North Carolina Funeral Home Association; and

Whereas, Howard J. Hunter, Jr. began a career in public service in 1978 as a Hertford County Commissioner and continued to serve on the Hertford County Board of Commissioners until 1988; and

Whereas, Howard J. Hunter, Jr. was elected to the North Carolina House of Representatives in 1989 to represent Hertford, Northampton, Gates, Bertie, and Perquimans Counties and was reelected nine times; and

Whereas, during his tenure in the House of Representatives, Howard J. Hunter, Jr. served as Chair of the Children, Youth and Families Committee, as Vice-chair of the Appropriations Subcommittee on Natural Economic and Environmental Health Resources, and as a member of many other committees, including Agriculture, Education, Local Government, Pensions and Retirement, Public Employees, Transportation, and Welfare Reform and Human Resources; and

Whereas, Howard J. Hunter, Jr. also served as Chair of the North Carolina Legislative Black Caucus from 1995 through 1996 and as a member of the Law and Justice Committee for the National Conference of State Legislators; and

Whereas, Howard J. Hunter, Jr. fought hard, and often successfully, to create a renewed State economy that would provide high quality education and health care for all children and that would include vibrant communities with jobs paying living wages, safe, affordable, and decent housing, and a well-funded organizational infrastructure to help produce these outcomes; and

Whereas, Howard J. Hunter, Jr. was instrumental in launching a shared vision providing tools, solutions, and a comprehensive plan for creating more productive rural communities on par with the State's thriving centers of economic prosperity; and

Whereas, Howard J. Hunter, Jr. worked diligently for the district he represented and the State of North Carolina and maintained a spirit of approachability where no one was a stranger; and

Whereas, Howard J. Hunter, Jr. received many honors and awards for his public service, including Outstanding Young Men of America; Personalities of the South Award for Outstanding Services to Community, State, and Nation; Outstanding Citizen in North Carolina in Human Relations; and Legislator of the Year from the North Carolina Alliance for the Mentally Ill in 1993; and

Whereas, Howard J. Hunter, Jr. was an active participant in his community, serving as President of the Board of Directors of the Hertford County United Way; Chair of the Hertford County Recreation Commission; Chair of the Choanoke Area Transit Authority; and as a member of the Hertford County Chapter of the Water Safety Commission; and

Whereas, Howard J. Hunter, Jr. was active in many civic and fraternal organizations, serving as a former scoutmaster, manager of Hobson Reynolds Elks National Shrine, Inc., President of the Hertford County Chapter of the North Carolina Central University Alumni Association, life member of the Ahoskie Alumni Chapter of

Kappa Alpha Psi, and as a member of the Elizabeth City State University Chapter of the Kappa Alpha Psi Guide Right Commission; and

Whereas, Howard J. Hunter, Jr. was active in the First Baptist Church of Murfreesboro, where he served as a trustee; and

Whereas, Howard J. Hunter, Jr. departed this life on January 7, 2007, leaving to mourn a son, Howard J. Hunter, III, and a daughter, Chyla Toye; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Howard J. Hunter, Jr. and expresses the gratitude and appreciation of this State and its citizens for his life and service to his community and to his State.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Howard J. Hunter, Jr.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to each child of Howard J. Hunter, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of May, 2007.

Resolution 2007-30 **Senate Joint Resolution 1035**

A JOINT RESOLUTION HONORING THE MEMORY OF FREDERICK LAW OLMSTED AND RECOGNIZING NATIONAL LANDSCAPE ARCHITECTURE MONTH.

Whereas, Frederick Law Olmsted, born on April 26, 1822, in Hartford, Connecticut, is often credited as the founder of landscape architecture in the United States; and

Whereas, Frederick Law Olmsted designed some of the most recognized gardens and parks in the United States, including Central Park and the United States Capitol; and

Whereas, Frederick Law Olmsted's works in North Carolina include the grounds at the Biltmore Estate in Asheville; and

Whereas, recognizing National Landscape Architecture Month is a fitting memorial to Frederick Law Olmsted and the contributions he made to the landscape architecture profession; and

Whereas, National Landscape Architecture Month celebrates the legacy of the landscape architecture profession and the role of landscape architects in society; and

Whereas, throughout April 2007, landscape architects, state chapters of the American Society of Landscape Architects, and partner organizations will participate in a variety of national, state, and local programs; and

Whereas, the American Society of Landscape Architects, founded in 1899, is the association that represents the landscape architecture profession in the United States; and

Whereas, the Society's mission is to lead, educate, and participate in the careful stewardship, wise planning, and artful design of our cultural and natural environments; and

Whereas, headquartered in Washington, D.C., the Society has grown from 11 original members in 1899 to more than 17,000 members in 48 professional chapters today; and

Whereas, of these members, approximately 80% are in private practice, 15% in local, state, or federal government practice, and 5% in academic practice; and

Whereas, members' work reflects the variety and breath of the profession, from the design of residential and commercial developments, office building sites, and public parks to public sector comprehensive planning, environmental planning, and town planning; and

Whereas, the American Society of Landscape Architects seeks to improve public understanding of the profession and to advance the practice of landscape architecture through education, communication, publications, online database services, professional interaction, and development; and

Whereas, the American Society of Landscape Architects is the organization authorized to accredit programs of landscape architecture at United States colleges and universities; and

Whereas, the American Society of Landscape Architects also works to advance its ethic and public policies to state, local, and federal decision making bodies, both directly and by working with a broad array of coalitions and organizations with similar goals; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Frederick Law Olmsted, joins the members of the American Society of Landscape Architects in recognizing April 2007 as National Landscape Architecture Month in North Carolina, and commends all landscape architects in the State of North Carolina for creating the special places in which we live, work, and play.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the North Carolina Chapter of the American Society of Landscape Architects.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of May, 2007.

Resolution 2007-31 **Senate Joint Resolution 1562**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF HALIFAX ON THE OCCASION OF THE TOWN'S TWO HUNDRED FIFTIETH ANNIVERSARY.

Whereas, the Town of Halifax, founded on the Roanoke River, was chartered by an act of the Assembly on November 21, 1757; and

Whereas, Halifax was named for George Montague, the second Earl of Halifax, who served as president of the Board of Trade and Plantations when the Town was established; and

Whereas, Halifax served as an important colonial government and commercial center; and

Whereas, on April 12, 1776, the Fourth Provincial Congress met in Halifax and unanimously adopted the "Halifax Resolves," the first official action by a colony recommending independence from Great Britain; and

Whereas, the legislature continued to meet in Halifax between 1779 and 1781; and

Whereas, the citizens of Halifax have made significant contributions to the social, cultural, political, and economic prosperity of the State of North Carolina; and

Whereas, Halifax has continued to grow and prosper through the continued dedication, insight, and planning of the Town's concerned leaders and citizens; and

Whereas, plans have been made to celebrate the Town's 250th historic anniversary on July 4, 2007, and during other times throughout the year; and

Whereas, this occasion is worthy of celebration and should be enjoyed and supported by all North Carolinians; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the founders of the Town of Halifax and congratulates the Town on its 250th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Honorable Gerald Wright, Mayor of the Town of Halifax.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Resolution 2007-32 **Senate Joint Resolution 1564**

A JOINT RESOLUTION PROVIDING THAT THE 2007 GENERAL ASSEMBLY SHALL MEET IN JOINT SESSION TO HONOR 2006 NASCAR NEXTEL CUP CHAMPION JIMMIE JOHNSON.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. On Wednesday, May 23, 2007, at 2:00 P.M., the Senate and the House of Representatives shall meet in joint session in the Hall of the Senate to honor 2006 NASCAR Nextel Cup Champion Jimmie Johnson.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Resolution 2007-33 **House Joint Resolution 1796**

A JOINT RESOLUTION OBSERVING THE FIFTIETH ANNIVERSARY OF THE NORTH CAROLINA REAL ESTATE COMMISSION.

Whereas, the North Carolina General Assembly on May 21, 1957, enacted the North Carolina Real Estate License Law creating the North Carolina Real Estate Licensing Board (now the North Carolina Real Estate Commission); and

Whereas, the North Carolina Real Estate Commission has endeavored to protect the interests of North Carolina real estate consumers and serve the needs of its 100,000 licensees through the development and implementation of programs to promote professionalism in real estate brokerage practice; and

Whereas, the North Carolina Real Estate Commission has received numerous national awards and honors for excellence in real estate education and license law administration; and

Whereas, the North Carolina Real Estate Commission has made significant and lasting contributions to the international Association of Real Estate License Law Officials including the election of four Commission and staff members to the highest position of leadership in the Association; and

Whereas, the North Carolina Real Estate Commission has published a respected textbook on North Carolina real estate law and real estate brokerage practice and an award-winning series of educational and informational publications and courses for the benefit of real estate consumers and practitioners; and

Whereas, the North Carolina Real Estate Commission has, for the advancement of real estate education and consumer protection, established awards in memory of Commission members Billie J. Mercer and Allan R. Dameron, and scholarships in honor of Executive Director Phillip T. Fisher and in memory of former Secretary-Treasurers Joseph F. Schweidler and Blanton Little; and

Whereas, the North Carolina Real Estate Commission has established a meaningful standard of conduct and practice for North Carolina real estate brokers and, in the enforcement of such standard, has cooperated with and assisted other State and federal agencies in addressing threats to the welfare of North Carolina citizens; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Billie J. Mercer, Allan R. Dameron, Joseph F. Schweidler, and Blanton Little for their contributions to the North Carolina Real Estate Commission.

SECTION 2. The General Assembly joins the members of the North Carolina Real Estate Commission in observing the organization's 50th anniversary and expresses its appreciation for the many contributions the organization has made to the real estate profession in North Carolina.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the North Carolina Real Estate Commission.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of May, 2007.

Resolution 2007-34 **House Joint Resolution 1808**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM DALLAS HERRING, FORMER CHAIR OF THE STATE BOARD OF EDUCATION.

Whereas, William Dallas Herring was born on March 5, 1916, in Rose Hill, North Carolina, to Burke and Lulu Southerland Herring; and

Whereas, Dallas Herring graduated from Rose Hill High in 1933 and Davidson College in 1938, where he studied English and economics; and

Whereas, after graduating from college, Dallas Herring worked for Atlantic Coffin and Casket Co., a family owned business in Rose Hill; and

Whereas, in 1939, Dallas Herring was elected Mayor of Rose Hill and, at the age of 23, became one of the youngest people in the nation to serve as a mayor; and

Whereas, Dallas Herring served as Rose Hill's Mayor until 1951 and, after that time, he was appointed to the Duplin County School Board where he served as a member and Chair until 1955; and

Whereas, in 1954, Governor William B. Umstead appointed Dallas Herring to the Pearsall Commission, whose mission was to look at the issues confronting the State as a result of the United States Supreme Court's landmark decision on school desegregation in Brown v. Board of Education; and

Whereas, in 1955, Dallas Herring was appointed to the State Board of Education and in 1957 became its Chair, a position he held until his retirement in 1977; and

Whereas, during his 22-year tenure on the State Board of Education, Dallas Herring served during the administration of six governors, including Luther H. Hodges, Terry Sanford, Daniel K. Moore, Robert W. Scott, James E. Holshouser, Jr., and James B. Hunt, Jr.; and

Whereas, Dallas Herring oversaw the desegregation and integration of the State's public schools, helped to improve the curriculum and class size, and fought for pay increases and teacher aides; and

Whereas, many credit Dallas Herring's efforts to provide additional educational opportunities for high school graduates as the impetus for the State's community college system; and

Whereas, in 1957, Dallas Herring's plan to create a statewide system of industrial education centers was adopted by the General Assembly, which also established the State's first community college during that same year; and

Whereas, the industrial education centers and community colleges were merged into a unified community college system in 1963; and

Whereas, after retiring from the State Board of Education, Dallas Herring served as president of the Atlantic Coffin and Casket Co., and continued advising those who sought his expertise on education matters from his home in Duplin County; and

Whereas, Dallas Herring served his community as a trustee of James Sprunt Community College in Duplin County between 1971 and 1986 and, because of his devoted service to the college, was honored with a building, lecture series, and a scholarship named in his honor; and

Whereas, Dallas Herring received many other recognitions and honors, including the North Carolina Award, the highest civilian award in North Carolina, and the following honorary degrees: L.L.D., Pfeiffer College, 1959; L.L.D., Davidson College, 1961; Doctor of Humanities, North Carolina State University, 1964; L.L.D., University of North Carolina at Wilmington, 1982; and

Whereas, Dallas Herring's interests in Duplin County history and genealogy led him to create a library in his home, which he opened to the public and became the headquarters of the Duplin County Historical Society Foundation; and

Whereas, Dallas Herring died on January 5, 2007, at the age of 90, leaving to mourn his loss two brothers and a sister; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of William Dallas Herring and expresses its appreciation for the service he rendered to his community, Duplin County, and the State of North Carolina.

SECTION 2. The General Assembly extends its deepest sympathy to the family of William Dallas Herring for the loss of a distinguished family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of William Dallas Herring.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of May, 2007.

Resolution 2007-35 **Senate Joint Resolution 1563**

A JOINT RESOLUTION HONORING 2006 NASCAR NEXTEL CUP CHAMPION JIMMIE JOHNSON.

Whereas, Jimmie Johnson began racing on 50cc motorcycles at the age of five and within a few years had moved to the 60cc motorcycle class winning his first championship at the age of eight; and

Whereas, Jimmie Johnson's racing career accelerated and he moved on to the Mickey Thompson Entertainment Group Stadium Racing Series and later advanced to off-road racing; and

Whereas, in 1998, Jimmie Johnson began driving in the American Speed Association series. ASA racing was his first taste in pavement racing and he has never looked back. He was named ASA Pat Schauer Rookie of the Year; and

Whereas, Jimmie Johnson raced in the NASCAR Busch series beginning in 1998 and posted his first Busch series win in 2001 at the inaugural race at Chicagoland Speedway; and

Whereas, Jimmie Johnson began his career as a driver in the NASCAR Nextel Cup series in 2002 driving the Lowe's #48 Chevrolet for Hendrick Motorsports. His #48 Chevrolet has been sponsored by Lowe's Home Improvement Company, one of North Carolina's true business success stories; and

Whereas, in 2002, Jimmie Johnson became the first rookie in NASCAR Nextel Cup racing to lead in the point standings. He notched three victories in his rookie campaign, winning twice at Dover International Speedway and once at California Speedway. He is the first rookie in series history to sweep both races at a track; and

Whereas, in 2003, Jimmie Johnson finished second in the Nextel Cup points standing with three wins, 14 top fives, 20 top tens, and two poles. His wins include sweeping the May races at Lowe's Motor Speedway capturing victories in the All-Star Race and the Coca-Cola 600 and two wins at New Hampshire International Raceway; and

Whereas, in 2004, Jimmie Johnson was able to complete the season with a second-place finish in the inaugural Chase for the NASCAR Nextel Cup Championship, had the most number of wins of any driver with eight victories, claimed 20 top-five and 23 top-10 finishes, and led 24 races for a total of 1,312 points; and

Whereas, during the 2005 season, Jimmie Johnson's victories included a fifth-place finish in the Chase for the NASCAR Nextel Cup Championship, the lead in point standings for 17 weeks, first place finishes at Las Vegas Motor Speedway and Dover International Speedway, won both points events at Lowe's Motor Speedway, and became the only driver ranked in the top 10 in point standings after every race during the season; and

Whereas, in 2006, Jimmie Johnson captured his first NASCAR Nextel Cup Championship at Homestead-Miami Speedway and became the only driver in the modern era to win at least three races in each of his first five full-time seasons; and

Whereas, Jimmie Johnson's success placed him among four other drivers in NASCAR's history to have won the Daytona 500 and the NASCAR Nextel Cup Championship in the same season and the title of Driver of the Year; and

Whereas, in 193 NASCAR Nextel Cup races, Jimmie Johnson had 27 wins, nine poles, and 73 top-five and 117 top-10 finishes; and

Whereas, during the current 2007 season, Jimmie Johnson has posted four wins, seven top-five finishes, and seven top-10 finishes; and

Whereas, when he is not racing, Jimmie Johnson hosts a weekly radio show on XM Radio and is a frequent guest on late night television shows and other media outlets; and

Whereas, Jimmie Johnson has also taken the time to give back to the community, founding the Jimmie Johnson Foundation with his wife Chandra Johnson in February 2006 to assist children, families, and communities in need; and

Whereas, in March of 2006 the Jimmie Johnson Foundation established Victory Lanes, a bowling alley for campers with chronic and life-threatening illnesses at Kyle and Pattie Petty's Victory Junction Gang Camp in Randleman, North Carolina; and

Whereas, Jimmie Johnson's achievements as a member of the Hendrick Motorsports team, is a fitting memorial to Hendrick family members and others who lost their lives during a plane crash in October of 2004 traveling to Martinsville Speedway in Virginia; and

Whereas, those lost in the plane crash were Ricky Hendrick, John Hendrick, Kimberly Hendrick, Jennifer Hendrick, Joe Jackson, Jeff Turner, Randy Dorton, Scott Lathram, Richard Tracy, and Elizabeth Morrison; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly congratulates Jimmie Johnson on his outstanding achievements as the NASCAR Nextel Cup Champion and expresses its appreciation for the contributions he has made in the lives of the children who attend the Victory Junction Gang Camp and the lives of needy families and children.

SECTION 2. The General Assembly honors the memory of those who lost their lives in the Hendrick plane crash on October 24, 2004, on the way to a NASCAR race at the Martinsville Speedway in Virginia.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Jimmie Johnson.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of May, 2007.

Resolution 2007-36 **Senate Joint Resolution 1565**

A JOINT RESOLUTION HONORING NORTH CAROLINA'S MILITARY AND VETERANS AND HONORING THE MEMORY OF THE MEN AND WOMEN WHO LOST THEIR LIVES WHILE SERVING IN THE MILITARY.

Whereas, North Carolina has a rich military heritage and is the site of some of the nation's major military installations, including Camp Lejeune, Fort Bragg, Pope Air

Force Base, Seymour Johnson Air Force Base, New River Marine Corps Air Station, and Cherry Point Marine Corps Air Station; and

Whereas, North Carolina is proud to be home to more than 770,000 veterans of our nation's armed forces and about 120,000 active-duty military personnel, one of the largest active-duty military populations in our entire country; and

Whereas, of the veterans living in North Carolina, more than 568,800 served in times of war, including over 140,000 in the first Gulf War, 225,000 in the Vietnam War, 77,600 in the Korean War, and 90,000 in World War II; and

Whereas, the State of North Carolina expresses its profound gratitude and appreciation to all current and retired military personnel for their selfless service to the United States; and

Whereas, as we prepare to observe Memorial Day, the General Assembly specifically wishes to recognize those who have made the ultimate sacrifice in the name of the safety and the freedoms of all Americans; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors those members of the military who have lost their lives in the defense of the safety and liberty of the people of the United States of America.

SECTION 2. The General Assembly acknowledges and expresses its appreciation and gratitude to those North Carolinians, both living and deceased, who have served in our armed forces in service to our country.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of May, 2007.

Resolution 2007-37 **Senate Joint Resolution 1168**

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2015; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. Upon the call of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the General Assembly shall meet in joint session to act on a joint resolution providing for confirmation of the appointments by the Governor of new members to the State Board of Education.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of June, 2007.

Resolution 2007-38 **Senate Joint Resolution 97**

A JOINT RESOLUTION HONORING NORTH CAROLINA NATIVES DON GIBSON AND EARL SCRUGGS.

Whereas, the State of North Carolina has served as the birthplace of numerous legendary artists, such as Cleveland County-born Don Gibson, singer and songwriter, and Earl Scruggs, singer, songwriter, and banjo player; and

Whereas, Don Gibson began his career with a Shelby band known as The Sons of Soil and recorded his first number one hit, "Oh Lonesome Me," in 1958; and

Whereas, Don Gibson had more than 80 charted records between 1956 and 1980 and wrote the song "I Can't Stop Loving You," which has been recorded more than 700 times by such artists as Elvis Presley and Ray Charles and has sold more than 30 million records worldwide; and

Whereas, Don Gibson was inducted into the Nashville Songwriters Hall of Fame in 1973 and the Country Music Hall of Fame in 2001; and

Whereas, Don Gibson died on November 17, 2003, at the age of 75; and

Whereas, Earl Eugene Scruggs was born on January 6, 1924, in Flint Hill, North Carolina, to George Elam Scruggs and Lula Ruppe Scruggs; and

Whereas, Earl Scruggs was born into a family of talented musicians, including his mother, who played the organ, his father, who played the banjo and fiddle, and his siblings, who played the banjo and guitar; and

Whereas, Earl Scruggs began playing the banjo at the young age of four; and

Whereas, between school and working on the family farm, Earl Scruggs spent much of his free time mastering the banjo; and

Whereas, at the age of 10, Earl Scruggs developed and began using his own unique three-fingered technique to play the banjo which would later become known as "Scruggs-Style Picking" and would be adopted by numerous banjo players around the world; and

Whereas, as a young man, Earl Scruggs worked in a textile mill to help support his widowed mother; and

Whereas, in 1945, Earl Scruggs joined Bill Monroe's Blue Grass Boys, a band whose members included Bill Monroe on mandolin, Lester Flatt on guitar, Chubby Wise on fiddle, and Cedric Rainwater on bass; and

Whereas, Earl Scruggs recorded a number of songs with the Blue Grass Boys before leaving the band in 1948; and

Whereas, Earl Scruggs later teamed up with Lester Flatt and formed the band The Foggy Mountain Boys; and

Whereas, The Foggy Mountain Boys became members of the Grand Ole Opry in 1955; and

Whereas, Earl Scruggs and The Foggy Mountain Boys produced such widely recognized tunes as "Foggy Mountain Breakdown," which was used in the 1967 film "Bonnie and Clyde," and "Ballad of Jed Clampett," which was the theme song for the TV show "The Beverly Hillbillies"; and

Whereas, in 1963, the "Ballad of Jed Clampett" became the first bluegrass song to reach the number one spot on the country music charts; and

Whereas, The Foggy Mountain Boys was one of the most successful bluegrass bands of all time and helped to influence generations of bluegrass musicians; and

Whereas, Earl Scruggs left The Foggy Mountain Boys in 1969 and formed the Earl Scruggs Revue featuring his son Randy Scruggs on guitar and vocals and his son Gary Scruggs on electric bass, vocals, and harmonica, and later, his son, Steve Scruggs on piano, guitar, and saxophone; and

Whereas, Earl Scruggs was inducted into the Country Music Hall of Fame in 1985 and the International Bluegrass Music Association (IBMA) Hall of Honor in 1991 and was awarded the National Heritage Fellowship Award and the President's National Medal of Arts; and

Whereas, Earl Scruggs has been nominated for numerous Grammy Awards and has won four, including two for renditions of "Foggy Mountain Breakdown"; and

Whereas, Earl Scruggs was honored with a star on the Hollywood Walk of Fame on February 13, 2003; and

Whereas, Earl Scruggs is highly respected among musicians, which is evident from the many performers who have made guest appearances on his albums, including Bob Dylan, Elton John, Sting, Melissa Etheridge, Johnny Cash, and Don Henley; and

Whereas, Earl Scruggs has had a profound impact on bluegrass and country music and thus has earned the admiration of the people of this State and the world; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of native son Don Gibson and expresses its appreciation for his invaluable contributions to the music industry.

SECTION 2. The General Assembly wishes to pay tribute to native son Earl Scruggs for his accomplishments as a musician and for his role in helping to popularize bluegrass and country music.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Earl Scruggs and the family of Don Gibson.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of June, 2007.

Resolution 2007-39 **House Joint Resolution 868**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF BROADWAY ON THE TOWN'S CENTENNIAL ANNIVERSARY.

Whereas, the Town of Broadway, located in Lee County, was founded in the 1870s by settlers who were mainly involved in the turpentine industry; and

Whereas, the Town's first post office was located in the General Store, which was owned by M.M. Watson, who served as postmaster; and

Whereas, the area began to thrive in part due to the development of Atlantic and Western Railroad in 1905; and

Whereas, the Town of Broadway was incorporated on March 8, 1907, with its boundaries established as one-half mile around the Atlantic and Western Railroad depot; and

Whereas, the Town's charter provided that its first officers include M.A. McLeod as Mayor and J.M. Langley, M.M. Watson, and A.P. Thomas as Commissioners; and

Whereas, education has always been of great importance to the citizens of Broadway beginning with the establishment of the Broadway Normal School by Professor M.A. McLeod around 1890; and

Whereas, after the turn of the century, agriculture and lumbering became the prominent businesses in the area; and

Whereas, some local businesses that helped Broadway prosper were Chandler-Farlow Lumber (1907), the Bank of Broadway (1909), Broadway Drug Store (1913), Stevens Milling Company (1945), and many other businesses and services; and

Whereas, religion has been a cornerstone in the growth of Broadway with the development of many strong churches, including Cameron Grove A.M.E. (1876), Broadway Methodist (1907), Broadway Presbyterian (1907), Broadway Baptist (1924), and many others; and

Whereas, Broadway has become a unique and thriving community of 1,200 citizens, preparing for the future with pride in the past; and

Whereas, plans have been made to celebrate the Town's centennial throughout the year, including a Centennial Celebration Weekend on April 20 and 21, 2007, with plans for several community events; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the founders of the Town of Broadway and congratulates the Town on its centennial anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Broadway.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Resolution 2007-40 **House Joint Resolution 1986**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SERGEANT HOWARD JOSEPH PLOUFF II, FALLEN WINSTON-SALEM POLICE OFFICER.

Whereas, Howard Joseph Plouff II was born on August 13, 1965, in New York, to Howard Joseph Plouff and Marie D'Andrea; and

Whereas, Howard Joseph Plouff II graduated from Connetquot High School in Bohemia, New York; and

Whereas, Howard Joseph Plouff II was a dedicated law enforcement officer for the Winston-Salem Police Department for over 17 years; and

Whereas, in 2003, Sergeant Plouff was awarded the Medal of Merit, the Winston-Salem Police Department's highest honor for his role in saving a woman from an 11-story fall; and

Whereas, Howard Joseph Plouff II was active in his community, serving as a volunteer firefighter with the Bohemia Fire Department in New York and as an assistant coach with Southwest Forsyth Little League; and

Whereas, Howard Joseph Plouff II was a member of the Holy Family Catholic Church in Clemmons; and

Whereas, Sergeant Plouff was killed in the line of duty when he responded to a call for help from deputies with the Forsyth County Sheriff's Department on Friday, February 23, 2007; and

Whereas, Howard Joseph Plouff II is survived by his wife, Joyce M. Plouff, two children, Brandy and Holly; his father, Howard Joseph Plouff; his mother and stepfather, Marie and Tom McGarrigle; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Howard Joseph Plouff II, and expresses the appreciation of this State and its citizens for his service to law enforcement.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Howard Joseph Plouff II for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Howard Joseph Plouff II.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Resolution 2007-41 **House Joint Resolution 2056**

A JOINT RESOLUTION EXPRESSING APPRECIATION TO THE TRIANGLE RADIO READING SERVICE FOR PROVIDING TWENTY-FIVE YEARS OF SERVICE TO ITS LISTENERS.

Whereas, Triangle Radio Reading Service (TRRS) was founded by the late Ben Eason, who died on August 22, 2006, and Dr. Ed Funkhouser, an Associate Dean of the College of Humanities and Social Sciences at North Carolina State University; and

Whereas, TRRS provides local news and information 24 hours a day to people who are elderly, blind, and print-impaired on an audio network of radio, television, and cable; and

Whereas, TRRS provides its listeners in the broadcast area with specially tuned SCA receivers that are free of charge; and

Whereas, TRRS serves more than 15,000 people in the 20-county area covering Alamance, Caswell, Chatham, Durham, Granville, Harnett, Lee, Moore, Orange, Person, Randolph, and Wake Counties; and

Whereas, listeners in portions of Cumberland, Franklin, Guilford, Hoke, Johnston, Montgomery, Nash, Rockingham, Vance, and Warren Counties can also pick up the broadcasts; and

Whereas, TRRS is operated by 150 volunteers and two full-time staff members; and

Whereas, TRRS deserves recognition for providing 25 years of invaluable service to the elderly, blind, and print-impaired; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Ben Eason and expresses its appreciation for the role he and Dr. Ed Funkhouser played in founding the Triangle Radio Reading Service.

SECTION 2. The General Assembly congratulates Triangle Radio Reading Service on its 25th anniversary.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the President of the Triangle Radio Reading Service Board of Directors.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Resolution 2007-42 **House Joint Resolution 1861**

A JOINT RESOLUTION HONORING THE EARLY SETTLERS OF LEE COUNTY ON THE COUNTY'S ONE HUNDREDTH ANNIVERSARY.

Whereas, Lee County was formed from Chatham and Moore counties and named for Confederate General Robert E. Lee; and

Whereas, Lee County was created on March 6, 1907, by the General Assembly through legislation that required approval of the voters; and

Whereas, on July 2, 1907, a majority of the voters gave their approval for the establishment of the State's 98th county; and

Whereas, on February 10, 1908, Governor Robert Broadnax Glenn appointed J. L. Godfrey, J. F. Womble, J. F. Jones, J. R. Jones, and J. J. Edwards, who served as Chair, to the Lee County Board of Commissioners; and

Whereas, the County's early inhabitants included Native Americans and people from many countries and nationalities, including Highland Scots, Germans, English, Africans, and Scotch-Irish; and

Whereas, Lee County's early economy centered on agriculture, naval stores, and iron works, which supplied the State with necessary iron goods during the American Revolution; and

Whereas, in 1853, coal was discovered in the Egypt community (now Comnock), and in 1855, the Egypt Mine opened as the State's first commercial coal mine; and

Whereas, expansion of the railroad in the area further contributed to the County's growth and aided in the establishment of new industries, including tobacco harvesting, brownstone quarrying, furniture making, brickworks, and textiles; and

Whereas, some of Lee County's notable citizens have included Reverend William D. Paisley, a Presbyterian minister; Herman Husband, a pioneer and leader in the Regulator Movement; Charles D. McIver, an educator and the first president of the University of North Carolina at Greensboro; and A.A.F. Seawell, who served as North Carolina's Attorney General and as a State Supreme Court justice during the 1930s; and

Whereas, Lee County has continued to grow and flourish, making significant contributions to the State of North Carolina; and

Whereas, according to the 2000 census, Lee County had a population of 50,000, a significant increase above the 2,262 residents recorded in 1910; and

Whereas, plans have been made to celebrate the County's anniversary throughout 2007, including a Centennial Celebration on July 2, 2007; and

Whereas, the County's anniversary is worthy of celebration and should be enjoyed and supported by all North Carolinians; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the early settlers of Lee County for their contributions to North Carolina.

SECTION 2. The General Assembly congratulates Lee County on its 100th anniversary and encourages the people of this State to join the citizens of Lee County in celebrating this historic occasion.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Chair of the Lee County Board of Commissioners.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 2007.

Resolution 2007-43 **House Joint Resolution 1425**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILMA DYKEMAN, ONE OF THE MOST INFLUENTIAL CONTRIBUTORS TO APPALACHIAN LITERATURE.

Whereas, Wilma Dykeman was born on May 20, 1920, to Willard Dykeman and Bonnie Cole Dykeman and grew up in the Beaverdam community of Buncombe County; and

Whereas, Wilma Dykeman attended Biltmore Junior College and graduated from Northwestern University in Evanston, Illinois, where she received a BA degree in speech in 1940; and

Whereas, Wilma Dykeman married James R. Stokely, Jr., a poet and orchard grower from Newport, Tennessee, a few months after graduating from college; and

Whereas, Wilma Dykeman and her husband raised two sons and spent their time between homes in Asheville and Newport; and

Whereas, Wilma Dykeman had a career as an author, journalist, lecturer, educator, and historian; and

Whereas, Wilma Dykeman wrote 18 books and countless articles and essays, many of which reflected her passion for the Appalachian culture, conservation, social equality, and feminism; and

Whereas, Wilma Dykeman's first book, "The French Broad," published in 1955 as part of the "Rivers of America Series," explored cultural heritage and water conservation; and

Whereas, Wilma Dykeman cowrote three books with her husband, including "Neither Black Nor White," a 1957 publication that examined race relations in the South and, won the Sidney Hillman Award for the best book of the year on world peace, race relations, or civil liberties; and

Whereas, Wilma Dykeman's other works included "Tall Woman," "Return the Innocent Earth," and "The Far Family;" and

Whereas, Wilma Dykeman wrote biographies of Will Alexander, Edna Rankin McKinnon, and W.D. Waterford and columns for many newspapers and magazines, including the Knoxville News-Sentinel, New York Times magazine, US News and World Report, and Reader's Digest; and

Whereas, Wilma Dykeman was affectionately known as the "First Lady of Appalachian Literature;" and

Whereas, Wilma Dykeman taught for a number of years in the English Departments of Berea College in Kentucky and the University of Tennessee; and

Whereas, Wilma Dykeman enjoyed public speaking and gave as many as 75 lectures a year; and

Whereas, due to her extensive knowledge of Tennessee, Wilma Dykeman was appointed as Tennessee's State Historian in 1980 and served in that position for four years; and

Whereas, Wilma Dykeman received many accolades and awards over the years, receiving the Guggenheim Fellowship, National Endowment for the Humanities Senior Fellowship, Chicago Friends of American Writers Award, North Carolina Gold Medal for Contribution to American Letters, Tennessee Outstanding Speaker of the Year by State Association of Speech Arts Teachers and Professions, and the Distinguished Service Award from the University of North Carolina at Asheville; and

Whereas, Wilma Dykeman was awarded the Thomas Wolfe Memorial Trophy, an honorary doctorate from Maryville College in Maryville, Tennessee, the North Carolina Award for Literature, the John Tyler Caldwell Award for the Humanities from the North Carolina Humanities Council, and the Zebulon B. Vance Award from Brevard College; and she was inducted into the North Carolina Literary Hall of Fame; and

Whereas, Wilma Dykeman found time to serve on the Board of Trustees of Berea College, the UNC Advisory Board, and the Great Smoky Mountains Advisory Board, and was a member of the Southern Historical Association; and

Whereas, Wilma Dykeman died on December 22, 2006, at the age of 86; and

Whereas, Wilma Dykeman is survived by her sons, Dykeman Stokely and James R. Stokely, and two grandchildren; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Wilma Dykeman and expresses the appreciation of this State and its citizens for her life and her contributions to literature.

SECTION 2. The General Assembly extends its sincere sympathy to the family of Wilma Dykeman for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Wilma Dykeman.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of June, 2007.

Resolution 2007-44 **House Joint Resolution 1053**

A JOINT RESOLUTION HONORING THE FOUNDER OF UNITED PARCEL SERVICE OF AMERICA, INC., (UPS) AND RECOGNIZING THE CONTRIBUTIONS OF THE COMPANY TO THE CITIZENS OF NORTH CAROLINA ON THE COMPANY'S CENTENNIAL ANNIVERSARY.

Whereas, James Everett Casey was born on March 29, 1888, in Candelaria, Nevada; and

Whereas, in 1907, James Everett Casey borrowed $100.00 from a friend to found American Messenger Company, which later became United Parcel Service (UPS); and

Whereas, on August 28, 2007, UPS will celebrate its 100th anniversary; and

Whereas, UPS has served North Carolina since January 3, 1966, and today employs over 9,000 employees and operates 56 facilities across the State; and

Whereas, each day, over 220,000 citizens of North Carolina utilize the express delivery and specialized transportation and logistics services that UPS provides; and

Whereas, UPS delivers more than 395,000 packages every day to customers across North Carolina, connecting people, communities, and businesses; and

Whereas, the services UPS provides connect the people of North Carolina to more than 200 countries through its expansive transportation network that truly synchronizes global commerce; and

Whereas, UPS has contributed more than 4.1 million dollars to philanthropic endeavors in the State of North Carolina since 1995, reflecting the company's emphasis on community service and citizenship; and

Whereas, UPS will continue to both provide a substantial economic impact to the people of North Carolina and focus on cultivating deep partnerships with the communities it serves; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of James Everett Casey, the founder of UPS, for his contributions and commitment to the company he founded.

SECTION 2. The General Assembly commemorates UPS's 100th anniversary and recognizes and celebrates both the economic and philanthropic contributions of UPS to the people of North Carolina.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the president of UPS.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Resolution 2007-45 **House Joint Resolution 886**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BEN W. AIKEN, AN ADVOCATE FOR PERSONS NEEDING SERVICES AND SUPPORTS FOR MENTAL ILLNESS, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE.

Whereas, Ben W. Aiken was born on June 5, 1920, in Creedmoor, North Carolina, to Elbert L. Aiken and Elsie Hester Aiken; and

Whereas, Ben W. Aiken lived his entire life in North Carolina and devoted his entire career to serving the people of North Carolina; and

Whereas, Ben W. Aiken completed his education at the University of North Carolina at Chapel Hill, earning a bachelor's degree; and

Whereas, Ben W. Aiken began his career in 1947 as the Assistant Business Manager at John Umstead Hospital in Butner, where he spent 20 years working to assure quality patient care; and

Whereas, Ben W. Aiken became the General Business Manager of the North Carolina Department of Mental Health in Raleigh in 1968; and

Whereas, Ben W. Aiken became the first Assistant Secretary of Human Resources under State government reorganization in 1973, during which time he helped meld very divergent departments into one human services unit, and also served on the first Mental Health Study Commission; and

Whereas, Ben W. Aiken returned to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in 1977 as its first nonmedical Director; and

Whereas, Ben W. Aiken retired from State government in 1983 as Deputy Director of the Department of Health and Human Services, and

Whereas, Ben W. Aiken continued his advocacy for persons with mental illness, developmental disabilities, and addictive diseases as a legislative liaison for the North Carolina Psychological Association for 20 years, and as a member of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services; and also as an advocate for those with vision impairment through United Action for the Blind; and

Whereas, Ben W. Aiken served his community as an active member of the Benson Memorial United Methodist Church, as a member of the Board of Directors of the Methodist Home for Children, and as a member of the Board of Directors of the State Employees Credit Union; and

Whereas, Ben W. Aiken devoted his career and life to improving the lives of the citizens of North Carolina, especially those with disabilities; and

Whereas, Ben W. Aiken received countless honors and awards for his work, including the Order of the Long Leaf Pine; and

Whereas, Ben W. Aiken died on December 24, 2005, leaving to mourn his loss, his wife, Helen; two daughters, Donna and Deborah; three grandchildren; and countless friends; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of Ben W. Aiken and expresses its appreciation for his invaluable contributions to services for persons with mental illness, developmental disabilities, and addictive diseases.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Ben W. Aiken for the loss of a distinguished family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Ben W. Aiken.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

Resolution 2007-46 **Senate Joint Resolution 192**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GARY M. CLARK, FORMER SHERIFF OF CALDWELL COUNTY.

Whereas, Gary M. Clark began a career in law enforcement in 1980, when he joined the Lenoir Police Department; and

Whereas, Gary M. Clark was elected as Sheriff of Caldwell County in 2002 and reelected in 2006; and

Whereas, Gary M. Clark was very diligent in his role as sheriff and worked extremely hard to enforce the law and protect the citizens of Caldwell County; and

Whereas, Sheriff Clark was successful in combating illegal drug activity in Caldwell County and was responsible for reducing the number of methamphetamine labs in the County; and

Whereas, Sheriff Clark held regular town hall meetings and, prior to his death, was in the process of establishing a Citizens Advisory Council that would have allowed citizens the opportunity to notify the Sheriff of problems in their neighborhoods; and

Whereas, Sheriff Clark was concerned about the welfare of children in his community and helped to found a mentor program known as the South Caldwell Alliance for Youth Program; and

Whereas, Sheriff Clark was an outstanding role model who was admired and respected by the men and women who served with him; and

Whereas, Sheriff Clark was a deeply religious man who was always willing to share his beliefs with others; and

Whereas, Sheriff Clark died on February 2, 2007, only a few weeks into his second term as sheriff; and

Whereas, Sheriff Clark is survived by his wife, Kim; daughters, Megan and Michelle; parents, Stanley and Norma Clark; and brother, Alan Clark; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of Sheriff Gary M. Clark and expresses its appreciation for his service to the people of Caldwell County.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Sheriff Gary M. Clark for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Sheriff Gary M. Clark.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of June, 2007.

Resolution 2007-47 **Senate Joint Resolution 1169**

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF KEVIN D. HOWELL AND EULADA P. WATT TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, the Governor has transmitted to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of

membership on the State Board of Education which expire March 31, 2015; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The appointments of Kevin D. Howell and Eulada P. Watt to membership on the State Board of Education for terms to expire March 31, 2015, are confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of June, 2007.

Resolution 2007-48 **House Joint Resolution 1976**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF ROBERT P. GRUBER AS EXECUTIVE DIRECTOR OF THE PUBLIC STAFF OF THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-15, the appointment made by the Governor of the Executive Director of the Public Staff of the North Carolina Utilities Commission is subject to confirmation by the General Assembly by joint resolution; and

Whereas, the current term of office of the Executive Director of the Public Staff of the North Carolina Utilities Commission expires on June 30, 2007; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee, Robert P. Gruber, to serve as Executive Director of the Public Staff of the North Carolina Utilities Commission for a term to begin July 1, 2007, and expire June 30, 2013; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointment of Robert P. Gruber as Executive Director of the Public Staff of the North Carolina Utilities Commission for a term to begin July 1, 2007, and expire June 30, 2013, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

Resolution 2007-49 **House Joint Resolution 1860**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF REVEREND WILLIAM WALLACE "W.W." FINLATOR, SR., DISTINGUISHED SOUTHERN BAPTIST MINISTER AND PASTOR EMERITUS OF PULLEN MEMORIAL BAPTIST CHURCH.

Whereas, William Wallace "W.W." Finlator was born on June 19, 1913, in Louisburg, North Carolina, to John Haywood Finlator and Bain Best Finlator; and

Whereas, W.W. Finlator grew up in the City of Raleigh and graduated from Hugh Morson High School in 1930; and

Whereas, W.W. Finlator earned a bachelor's degree from Wake Forest University in 1934 and a master's degree from Southern Baptist Theological Seminary in Louisville, Kentucky, in 1937; and

Whereas, Reverend Finlator served as pastor of churches in Chatham County, the Town of Weldon, and Elizabeth City prior to becoming senior pastor at Pullen Memorial Baptist Church in Raleigh, where he led the congregation from 1956 to 1982; and

Whereas, Reverend Finlator was a lifelong citizen of North Carolina, as were his parents and grandparents before him, and was a devoted North Carolinian; and

Whereas, Reverend Finlator believed people should be treated fairly and showed his Christian and democratic spirit by treating everybody the same way, while always trying especially to help the underdog and the disadvantaged; and

Whereas, Reverend Finlator actively opposed racism, the Vietnam War, and the death penalty; and

Whereas, Reverend Finlator advocated for women's rights, civil rights, the rights of workers and labor unions, the separation of church and state, the abolition of the property tax exemption on church-owned properties, the alleviation of poverty, among many other causes; and

Whereas, over the years, Reverend Finlator was recognized for his many good deeds, receiving honorary doctorates from Wake Forest University and the University of North Carolina at Chapel Hill, the Frank Porter Graham Award, and the North Carolina Award in Public Service, and he was inducted in the Raleigh Hall of Fame in 2005; and

Whereas, over the years, Reverend Finlator was a friend of generations of North Carolina legislators and came to the North Carolina General Assembly on countless occasions to talk to legislators and testify in committee meetings in order to promote the causes he believed in; and

Whereas, Reverend Finlator believed that government can be a force for the general good; and

Whereas, Reverend Finlator died on July 3, 2006, leaving his wife, Mary Elizabeth Purvis Finlator; his children, W. Wallace Finlator, Jr., Elizabeth F. McCutchen, and Martha Dell Finlator; eight grandchildren; and countless friends to mourn his loss; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of Reverend William Wallace "W.W." Finlator, Sr. and expresses its gratitude for the service he rendered to his State and community.

SECTION 2. The General Assembly expresses its sincere sympathy to the family of Reverend William Wallace "W.W." Finlator, Sr. for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Reverend William Wallace "W.W." Finlator, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Resolution 2007-50 **House Joint Resolution 1720**

A JOINT RESOLUTION HONORING THE MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD AND THEIR FAMILIES FOR THEIR

SERVICE TO THE STATE OF NORTH CAROLINA AND TO THE NATION SINCE SEPTEMBER 11, 2001.

Whereas, since September 11, 2001, 10,982 members of the North Carolina National Guard have been deployed; and

Whereas, 159 members of the North Carolina Air National Guard are currently deployed; and

Whereas, 689 members of the North Carolina Army National Guard are currently deployed; and

Whereas, five members of the North Carolina Air National Guard have been wounded in action since September 11, 2001; and

Whereas, 130 members of the North Carolina Army National Guard have been wounded in action since September 11, 2001; and

Whereas, Specialist Jocelyn L. Carrasquillo, Captain Christopher S. Cash, Specialist Daniel A. Desens, Staff Sergeant Bobby C. Franklin, and Staff Sergeant Michael S. Voss, members of the North Carolina Army National Guard, were killed in action since September 11, 2001; and

Whereas, Sergeant DeForest L. Talbert, a member of the West Virginia National Guard whose unit is part of the 30th Brigade Combat Team headquartered in North Carolina, was killed in action since September 11, 2001; and

Whereas, Sergeant Leonard W. Adams, Staff Sergeant Michael McDonald, Specialist James Masters, Staff Sergeant Harold Best, Sergeant Kord Correia, Specialist McKenzie Callahan, Sergeant First Class Earl Falcon, Specialist Terry Stafford, Sergeant Darry Benson, Sergeant Matthew Burton, and Master Sergeant Thomas Palmer, members of the North Carolina National Guard, while mobilized, died in the line of duty since September 11, 2001; and

Whereas, the members of the North Carolina National Guard and their families deserve recognition for their outstanding and dedicated service to the State of North Carolina and the nation; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses the appreciation of this State and its citizens for the service that the members of the North Carolina National Guard and their families have rendered to the State of North Carolina and the nation.

SECTION 2. The General Assembly honors the memory of the members of the North Carolina National Guard, and those that serve with them, who gave their lives in defense of the safety and liberty of the people of the United States.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Adjutant General of the North Carolina National Guard.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Resolution 2007-51 **House Joint Resolution 2058**

A JOINT RESOLUTION ACKNOWLEDGING THE IMPORTANCE OF THE MUSICAL GROUP KNOWN AS THE BRIARHOPPERS, WHICH PROVIDED FAMILY ENTERTAINMENT FROM THE STUDIOS OF CHARLOTTE'S WBT

RADIO, AND HONORING THE MEMORY OF FORMER BRIARHOPPER MEMBERS AND THE GROUP'S FOUNDER.

Whereas, in 1935, Charles Crutchfield, a radio announcer for Charlotte radio station WBT, formed a musical group known as the Briarhoppers (WBT Briarhoppers) to satisfy a potential advertiser, Consolidated Drug Trade Company of Chicago; and

Whereas, the Briarhoppers performed bluegrass and country music and became a very popular group attracting scores of fans; and

Whereas, the first group of Briarhoppers were a Tin Pan Alley musical group that lasted from 1935 to 1941; and

Whereas, the Briarhoppers became a string band in 1941 and, with the exception of a short period of inactivity, have continuously performed as a group, earning the title of the longest performing bluegrass and country ensemble still active in the music field today; and

Whereas, many legendary musicians performed as a member of the Briarhoppers, including Charles Crutchfield, Johnny McAllister, Big Bill Davis, Don White, Billie Burton Daniel, Eleanor Bryan Fields, Jane Bartlett, Clarence Etters, Thorpe Westerfield, Mildred and Floyd, the Oklahoma Sweethearts, Fred Kirby, Claude Casey, Roy "Whitey" Grant, Arval Hogan, Nat Richardson, Sam Poplin, Homer Christopher, Shannon Grayson, Fiddlin' Hank Warren, the Tennessee Ramblers, Homer "Pappy" Sherrill, Dwight Moody, David Deese, and David Moody; and

Whereas, many talented artists appeared on the Briarhopper family entertainment show, including the Original Carter Family, Bill and Charlie Monroe, Uncle Dave Macon, Roy Acuff, and Little Jimmy Dickens, and classical musicians Jose Iturbi and David Rubinoff; and

Whereas, the Briarhoppers entertained the troops during World War II and polio victims during the 1940s and performed on Public Radio's "Prairie Home Companion" and at the 1984 World's Fair in Knoxville, Tennessee; and

Whereas, the Briarhoppers participated in programs throughout the North Carolina school system under the State-funded project "The Original Briarhoppers School Program"; and

Whereas, over the years, the Briarhoppers have been recognized for their contributions to the cultural and musical heritage of North Carolina and have received the North Carolina Folk Heritage Award in 2003 and the Brown-Hudson Award from the North Carolina Folklore Society in 2002; and

Whereas, the Briarhoppers were featured in an exhibit at the Levine Museum of the New South in Charlotte and in "The Charlotte Country Music Story", produced by the North Carolina Folk Society and Spirit Square in Charlotte; and

Whereas, the Briarhoppers are the subject of a new book written by Thomas and Lucy Warlick, which covers their history; and

Whereas, only a few members of the early Briarhopper family survive today, including Billie Burton Daniel, a resident of Wilmington and a 70-year member of the group, Eleanor Bryan Fields, a member of the 1941 string band, and Roy "Whitey" Grant, a Briarhopper since 1941; and

Whereas, the Briarhoppers deserve a heartfelt thanks for entertaining the citizens of North Carolina and the world for more than 70 years; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses its appreciation and gratitude to the Briarhoppers for their contributions to the State's cultural heritage.

SECTION 2. The General Assembly honors the memory of Charles Crutchfield, founder of the Briarhoppers, as well as the other former members of the Briarhoppers who have died.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to the family of Charles Crutchfield, WBT/WBTV of Charlotte, the Levine Museum of the New South, and the Country Music Hall of Fame.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 2007.

Resolution 2007-52 **Senate Joint Resolution 1561**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM DUDLEY ROBBINS, SR., FORMER LIEUTENANT COLONEL OF THE UNITED STATES ARMY.

Whereas, William Dudley Robbins was born on February 8, 1921, to W.H. "Red" Robbins and Izma Jennette Robbins in the City of Raleigh; and

Whereas, as a young boy, William Dudley Robbins moved with his family to Pender County; and

Whereas, William Dudley Robbins graduated from Burgaw High School in 1938 and received a degree in horticulture from North Carolina State University in 1942, where he served as president of the student body and Cadet Colonel of the ROTC and was a member of the football, baseball, and boxing teams; and

Whereas, after college, William Dudley Robbins proudly served in the United States Army during World War II, where he fought in the Battle of the Bulge; and

Whereas, William Dudley Robbins spent time as a prisoner of war from December 1944 to May 1945, and was awarded the Bronze Star, Combat Infantryman's Badge, the Purple Heart, and three Battle Stars; and

Whereas, upon his discharge from the army, William Dudley Robbins joined the Army Reserves, remaining an active member until 1964 and reaching the rank of Lieutenant Colonel; and

Whereas, William Dudley Robbins' deep affinity for the land and his background in horticulture provided the foundation in helping him to succeed as the owner of Robbins Nursery in the Town of Penderlea; and

Whereas, William Dudley Robbins was an active supporter of veterans and veterans' rights and in 1965, became a charter member of the American Legion Post 165 in Burgaw; and

Whereas, William Dudley Robbins served as Post Commander for two years and was later elected District Commander, State Vice Commander, and State Commander; and

Whereas, William Dudley Robbins went on to serve on the National Executive Committee and as a member of the American Legion's National Insurance Committee, the National Americanism Commission, and the National Security Commission; and

Whereas, William Dudley Robbins was appointed to the North Carolina Veterans Commission, serving under Governors Daniel T. Moore, James B. Hunt, Jr.,

and Michael F. Easley, and served as Chair of the North Carolina Veterans Affairs Commission from June 1993 to September 2004; and

Whereas, William Dudley Robbins strongly believed in educating the youth in his community, serving as Chair of the Pender County Board of Education for 23 years of his 25-year tenure; and

Whereas, William Dudley Robbins was a strong participant in his community, serving as a Ruritan and Mason for more than 50 years, as a Shriner, and as a charter member of both the Pender County Rescue Squad and the Penderlea Fire Department; and

Whereas, William Dudley Robbins was awarded the Order of the Long Leaf Pine by Governor James B. Hunt, Jr., and presented a POW Medal by Congressman Mike McIntyre; and

Whereas, William Dudley Robbins was active in the Saint Mary's Episcopal Church in Burgaw, where he was a Sunday school teacher, Sunday school superintendent, and a member of the Vestry; and

Whereas, William Dudley Robbins died on March 13, 2007, at the age of 86; and

Whereas, William Dudley Robbins is survived by his wife, Jacquelyne Gordon Robbins; four sons, William Dudley "Bill" Robbins, Jr., Wilfred Lee "Red" Robbins, Martin Gordon "Marty" Robbins, and James Thomas "Jimbo" Robbins; six grandchildren; and several other close relatives; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of William Dudley Robbins, Sr., and expresses the appreciation of this State and its citizens for his contributions and service.

SECTION 2. The General Assembly extends its deepest sympathy to the family of William Dudley Robbins, Sr., for the loss of a beloved and distinguished family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of William Dudley Robbins, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

Resolution 2007-53 **House Joint Resolution 2059**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF BRIDGETON ON THE TOWN'S ONE HUNDREDTH ANNIVERSARY.

Whereas, the Town of Bridgeton, located in Craven County, was settled around 1900 when a number of lumber mills sprung up in the area during a boom in the lumber business; and

Whereas, Bridgeton was incorporated as the Town of Lingfield on February 28, 1907; and

Whereas, the Town of Lingfield changed its name to the Town of Bridgeton on March 8, 1907; and

Whereas, Bridgeton was named for its location at the foot of the Neuse River Bridge; and

Whereas, Bridgeton held its first election on May 7, 1907, electing S.W. Brooks as Mayor, W.R. Hopewell as Constable, and C.A. Ryman, Isaac Lewis, H.M. Bunting, and J.H. Oglesby as Commissioners; and

Whereas, Bridgeton has continued to prosper through the continued dedication, insight, and planning of the Town's concerned leaders and citizens; and

Whereas, the Town of Bridgeton has been and continues to be a vibrant community with many fine citizens who have contributed to the character of the Town throughout its existence; and

Whereas, Bridgeton's 307 citizens are very proud of their heritage and "small town" friendly atmosphere; and

Whereas, Bridgeton's 100th anniversary is worthy of recognition and celebration and should be enjoyed and supported by all North Carolinians; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the founders of the Town of Bridgeton on the Town's 100th anniversary.

SECTION 2. The General Assembly joins the citizens of the Town of Bridgeton in celebrating the Town's 100th anniversary and congratulates the Town on its 100th anniversary.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Bridgeton.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Resolution 2007-54 **House Joint Resolution 2061**

A JOINT RESOLUTION HONORING THE MEMORY OF RICHARD CLINTON FOR WHOM THE CITY OF CLINTON IS NAMED AND RECOGNIZING THE CITY ON BEING NAMED A 2007 ALL-AMERICA CITY.

Whereas, the City of Clinton was founded in the 1780s when a courthouse was established there on land owned by Richard Clinton for whom the City was later named; and

Whereas, Clinton is the largest incorporated town in Sampson County and serves as the county seat; and

Whereas, Clinton was recently honored by the National Civic League as one of the 10 municipalities nationwide to receive its All-America City Award, a national community recognition program in its 58th year; and

Whereas, to merit the All-America City Award, Clinton had to show successful resolution of community issues through collaborative effort; and

Whereas, Clinton received recognition for three projects: the March to a Million Project, a communitywide effort to raise $1.4 million for the new public high school; the Fitness Renaissance Project, which includes the creation of an innovative program to fight obesity among children and the establishment of a community exercise facility to improve the health of the City's citizens; and the Community Technology Learning Center, an educational center that offers after school programs to youth and provides adults with greater access to technology; and

Whereas, Clinton's extraordinary achievements in becoming an All-America City deserves recognition by the General Assembly; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Richard Clinton for his contributions to the State of North Carolina.

SECTION 2. The General Assembly honors the City of Clinton and its citizens for receiving the National Civic League's All-America City Award and wishes to extend its congratulations to the City of Clinton and its citizens for bringing national recognition to the State of North Carolina.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of Clinton.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of July, 2007.

Resolution 2007-55 **Senate Joint Resolution 1567**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GROVER ROBBINS, JR., FOUNDER OF TWEETSIE RAILROAD ON THE THEME PARK'S FIFTIETH ANNIVERSARY.

Whereas, in 1866, the East Tennessee & Western North Carolina Railroad Company was given permission to construct a railroad between Tennessee and North Carolina; and

Whereas, rail service began in 1882 between Johnson City, Tennessee, and Cranberry, North Carolina, and within a few years was extended to Boone, North Carolina; and

Whereas, the name "Tweetsie" came about as a result of the shrill "tweet, tweet" sound made by the train's whistles as the train passed through the mountains; and

Whereas, the East Tennessee & Western North Carolina Railroad Company ceased operating in 1950, and the company's only surviving coal-fired steam engine, Tweetsie Locomotive #12, changed owners several times before it was purchased in 1956 by Grover Robbins, Jr., a native of Blowing Rock, North Carolina; and

Whereas, Grover Robbins, Jr. developed the concept for Tweetsie Railroad and opened the attraction as North Carolina's first theme park on July 4, 1957; and

Whereas, Grover Robbins, Jr. made other contributions to North Carolina's tourism industry prior to his death in 1970, including developing the Hound Ears Lodge and Club on Beech Mountain, Linville Land Harbor, and the former Land of Oz Theme Park on Beech Mountain; and

Whereas, Tweetsie Railroad offers visitors a variety of entertainment, including an action-packed three-mile train ride featuring Tweetsie Locomotive #12, a Wild West theme park, live shows, amusement rides, scenic chair lift rides to Miner's Mountain, a Tweetsie Railroad/ET & WNC Museum, and a petting zoo; and

Whereas, Tweetsie Railroad also has a complete steam train repair shop business, which rebuilds and restores locomotives for other theme parks and museums; and

Whereas, Tweetsie Railroad's #12 locomotive is listed on the National Register of Historic Places; and

Whereas, Tweetsie Railroad should be commended for offering 50 years of family fun to the people from North Carolina and around the country and for continuing to attract thousands of visitors each year; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Grover Robbins, Jr. and expresses its appreciation for his many contributions to tourism in North Carolina.

SECTION 2. The General Assembly commends Tweetsie Railroad on its 50th anniversary and encourages the citizens of this State to participate in activities observing the theme park's celebration.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the owners of Tweetsie Railroad.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 2007.

Resolution 2007-56 **Senate Joint Resolution 1568**

A JOINT RESOLUTION HONORING THE MEMORY OF JULIAN G. WHITENER, FORMER MAYOR OF THE CITY OF HICKORY, ON THE OCCASION OF HICKORY BEING NAMED A 2007 ALL-AMERICA CITY.

Whereas, the late Julian G. Whitener served as Mayor of the City of Hickory from 1959 to 1977, where he was a diligent and devoted servant who helped to improve the conditions of the City; and

Whereas, the citizens of the City of Hickory possess a community spirit that has enabled them to work together successfully to improve the quality of their lives; and

Whereas, Hickory was recently honored by the National Civic League as one of the 10 communities nationwide to receive its All-America City Award, which recognizes excellence in local efforts to strengthen the civic infrastructure of America's communities; and

Whereas, this honor gave Hickory its third win in 40 years, having previously been named an All-America City in 1967 and 1987, and put the city in an elite group of only 28 cities to earn this recognition three or more times; and

Whereas, to justify why the city deserved the All-America City Award, Hickory demonstrated its efforts to rebound from recent economic hardships and presented the effects of three grassroots projects: the Hickory Metro Higher Education Center, a partnership between various academic institutions that try to improve educational opportunities of area citizens and boost economic development in the region; Exodus Home, a nonprofit agency that provides transitional and permanent housing for disadvantaged residents; and Project Potential, a scholarship program aimed at helping at-risk youth stay in school by offering them scholarships for post high school education; and

Whereas, the extraordinary achievements of Hickory helped distinguish the City of Hickory as an All-America City, and this honor deserves recognition by the General Assembly; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Julian G. Whitener, former Mayor of the City of Hickory, and expresses its gratitude for the service he rendered to the people of Hickory.

SECTION 2. The General Assembly honors the City of Hickory and its citizens for receiving the National Civic League's All-America City Award and wishes to extend its congratulations to the City of Hickory and its citizens for bringing national recognition to the State of North Carolina.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of Hickory.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of July, 2007.

Resolution 2007-57 **Senate Joint Resolution 1566**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SENATOR JEANNE HOPKINS LUCAS.

Whereas, Jeanne Hopkins Lucas was born on December 25, 1935, in the City of Durham, to Robert Hopkins and Bertha Holman Hopkins; and

Whereas, Jeanne Hopkins Lucas was a graduate of Hillside High School and North Carolina Central University, where she earned a BA in Foreign Languages in 1957 and an MA in School Administration in 1977; and

Whereas, Jeanne Hopkins Lucas served as an educator for the Durham Public Schools for 20 years, teaching French and Spanish at Hillside High School from 1957 to 1975, and was honored with the Durham City Teacher of the Year Award in 1974; and

Whereas, Jeanne Hopkins Lucas served her profession as President of the North Carolina Association of Classroom Teachers from 1975 to 1976, representing more than 50,000 educators from across the State; and

Whereas, Jeanne Hopkins Lucas worked in various administrative positions for the Durham Public Schools from 1977 until her retirement in 1993, serving as Director of Staff Development from 1977 to 1991, Director of Personnel/Staff Development from 1991 to 1992, and Director of School and Community Relations from 1992 to 1993; and

Whereas, Jeanne Hopkins Lucas began an active role in politics in 1972, serving as Vice-Chair and later as Chair of Precinct 29, Secretary and Chair of the Durham County John F. Kennedy Young Democratic Club, Secretary and Chair of the Durham County Democratic Executive Committee, and Chair of the Second Congressional District Democratic Executive Committee; and

Whereas, Jeanne Hopkins Lucas was appointed to the North Carolina State Senate to fill an unexpired term in 1993, becoming the first African-American female to serve in the Senate; and

Whereas, Jeanne Hopkins Lucas, affectionately called "Queen Jeanne" by some of her fellow Senators, was reelected to the Senate for six terms, where she served with honor and distinction from 1995 to 2007; and

Whereas, during her tenure in the General Assembly, Jeanne Hopkins Lucas took a special interest in such issues as education, children, senior citizens, the mentally and physically challenged, and health insurance for low-income citizens; and

Whereas, Jeanne Hopkins Lucas served in various leadership positions in the Senate, including Majority Whip and Senior Chair of the Appropriations on Education/Higher Education Committee, Cochair of the Education/Higher Education Committee, and Vice-Chair of Agriculture/Environment/Natural Resources Committee; and

Whereas, Jeanne Hopkins Lucas made contributions as a member of other committees, including Judiciary I, Mental Health and Youth Services, Pensions & Retirement and Aging, the Select Committee on Insurance and Civil Justice Reform, Select Committee on the Lottery Bill, Domestic Violence Commission, and the State Health Coordinating Council; and

Whereas, Jeanne Hopkins Lucas was a devoted and lifelong servant of her community, serving as a member of several civic and fraternal organizations, including Delta Sigma Theta Sorority, Inc., the Links, Summit House, The Durham Committee on the Affairs of Black People, and a life member of the Durham NAACP; and

Whereas, Jeanne Hopkins Lucas was dedicated in her service to Mount Gilead Baptist Church in Durham, serving as a member of the Trustee Board and secretary of that Board, chair of the Budget Committee, member of the Mass Choir and the Gospel Chorus, and a Sunday schoolteacher for teenagers; and

Whereas, Jeanne Hopkins Lucas received numerous honors and awards for her good deeds, including the YWCA Woman Achievement Silver Medallion, National Association of Negro Business and Professional Women's Club Award, 1998 Eighth Annual Elna B. Spaulding Founder's Award, Citizen of the Year Award, Excellence Award-Central Carolina Consortium, Hillside High School Alumni Award, the Federal Bureau of Prisons Seymour Johnson Affirmative Action Honor, and the Durham Committee on the Affairs of Black People Founders Honor Award; and

Whereas, Jeanne Hopkins Lucas died on March 9, 2007, and will be remembered as an icon, mentor, leader, visionary, educator, trailblazer, legend, charmer, comedienne, politician, and Christian. She looked for the best in others, and she brought out the best in others. She will also be remembered for her intelligence, compassion, confidence, and integrity. She was a pioneer for the needy and the poor and a friend to all; and

Whereas, Jeanne Hopkins Lucas is survived by her husband, William Lucas, and two sisters, Bertha Hopkins Breese and Bernadette Hopkins David-Yerumo; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Jeanne Hopkins Lucas for her dedication and lifelong career of public service and for her many contributions to her community and the State of North Carolina.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Jeanne Hopkins Lucas for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit certified copies of this resolution to the members of the family of Jeanne Hopkins Lucas mentioned in this resolution.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of July, 2007.

Resolution 2007-58 **Senate Joint Resolution 1483**

A JOINT RESOLUTION OBSERVING THE ONE HUNDREDTH ANNIVERSARY OF THE HISTORIC MITCHELL COUNTY COURTHOUSE.

Whereas, construction of the historic Mitchell County Courthouse was completed in 1907, and the year of 2007 marks the 100th anniversary of this important building; and

Whereas, the historic Courthouse has been the landmark and focal point for Mitchell County and a stage upon which was played a myriad of human dramas for the past 100 years; and

Whereas, the historic Courthouse served the citizens of Mitchell County as the seat of county government, a repository of records, a house of justice, and a community meeting place until its closing; and

Whereas, the historic Courthouse is an architectural prominence reflecting the independent spirit of the people of Mitchell County; and

Whereas, the Mitchell County Board of Commissioners has appointed a group of citizens to develop a plan to restore the historic Courthouse for a continuing role as a community hub; and

Whereas, a restored historic Courthouse will honor the people, history, and culture of Mitchell County and will contribute to the County's future through economic development; and

Whereas, restoration of the historic Courthouse will also serve as a fitting testimonial and memorial to the countless people who practiced law, presided over cases, and kept records in the Courthouse over the years, including the late John C. McBee, who spent over 50 years practicing law in Bakersville and trying hundreds of cases in the Courthouse; and

Whereas, the 100th year anniversary of the historic Courthouse will be celebrated by the people of Mitchell County throughout the year of 2007; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly recognizes the historic Courthouse of Mitchell County as an important landmark and commends the people of Mitchell County for their efforts to restore it to a prominent role in their future aspirations and hopes.

SECTION 2. The General Assembly honors the people who worked in the historic Mitchell County Courthouse, including John C. McBee.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Chair of the Mitchell County Board of Commissioners and the family of John C. McBee.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Resolution 2007-59 **Senate Joint Resolution 1558**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF GOLDSTON ON THE TOWN'S ONE HUNDREDTH ANNIVERSARY.

Whereas, the Town of Goldston, located in Chatham County, was settled in the late 1880s and was formerly known as Corinth; and

Whereas, the first post office was established in the area in 1889, and N.F. Barber served as the first postmaster; and

Whereas, the General Assembly ratified legislation incorporating the Town of Goldston on February 20, 1907; and

Whereas, the Town was named for Joseph John Goldston, who donated much of the land from which the town was developed; and

Whereas, the Town's charter provided that its first officers include Walter L. Goldston as Mayor, C.W. Womble, N.F. Barber, T.M. Bynum, O.S. Johnson, and W.M. Burns as Commissioners, and Charles Elkins as Marshal; and

Whereas, the early growth of the Town was due in part to the expansion of the railroad which aided in distributing lumber and agricultural products produced in the Town and attracting new industry and citizens; and

Whereas, Goldston has not grown significantly since the 1970s, consisting of 375 citizens, but has continued to prosper through the continued dedication, insight, and planning of the Town's concerned leaders and citizens; and

Whereas, Goldston's citizens value their community and believe in the Town's motto of "Volunteering is our way of life"; and

Whereas, plans have been made to celebrate the Town's historic anniversary throughout the year and during the annual Old Fashion Day street fair in October; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of the founders of the Town of Goldston and congratulates the Town on its centennial anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Goldston.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 2007.

Resolution 2007-60 **House Joint Resolution 2064**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES PRESTON "JIMMY" GREEN, JR., AN ATTORNEY AND A MAN OF GREAT COMPASSION WHO WORKED TIRELESSLY IN HIS COMMUNITY TO IMPROVE THE LIVES OF THE LESS FORTUNATE.

Whereas, James Preston "Jimmy" Green, Jr., was born on November 19, 1958, in the United States Army Hospital in Landstuhl, Germany, to Dr. James Preston Green, Sr., and Carolyn Marie Smith Green; and

Whereas, Jimmy Green received his early education in the Vance County public school system; graduated from Vance Senior High School in 1976; earned a

bachelor's of science degree, with honors, in public administration, from North Carolina Central University in 1980, a master's degree in public affairs from North Carolina State University in 1982, and a juris doctor degree from North Carolina Central University School of Law in 1986; and

Whereas, early in his legal career, Jimmy Green, who was fondly referred to by his clients and members of the public as "Attorney Green," served as executive director of The North Carolina Coalition of Rural Farm Families and as an adjunct professor of public administration at North Carolina Central University; and

Whereas, Jimmy Green established law offices in Raleigh, Durham, and Henderson, North Carolina, and provided legal representation in the areas of Social Security disability, bankruptcy, traffic offenses, and real estate; and

Whereas, Jimmy Green was dedicated to providing quality legal services to his clients regardless of their ability to pay and worked diligently on their behalf to resolve their legal concerns in a way that left them empowered; and

Whereas, Jimmy Green was active in the legal community, serving as a member of the North Carolina State Bar Association, the North Carolina Association of Black Lawyers, the Charles W. Williamson Bar Association in Henderson, North Carolina, and the National Association of Consumer Bankruptcy Attorneys; and

Whereas, Jimmy Green was an advocate for and legal counselor to many small farmers in the State and did pro bono work for the Land Loss Prevention Project at North Carolina Central University School of Law and for Operation Spring Plan, an organization in Oxford, North Carolina, which provides technical assistance to small farmers and others; and

Whereas, Jimmy Green was devoted to the youth in his community, serving as a member or supporter of The Adolescent Pregnancy Prevention Coalition in Vance County; About Face II, Inc., an organization that educates high school dropouts; the Boy Scouts of America, Girl Scouts of America; and the Board of Directors of the Vance County Boys and Girls Club; and

Whereas, Jimmy Green made time to get involved in his community by working with a number of organizations that are committed to helping others, including serving as President of the Vance County branch of the NAACP, the Vance County Organization to Implement Community Excellence, and the Zeta Alpha Chapter of Omega Psi Phi Fraternity, Inc.; and

Whereas, Jimmy Green, a great-grandson of North Carolina Central University founder, Dr. James E. Shepard, founded The James E. Shepard Center for Truth and Service, a nonprofit organization that is committed to preserving the history and legacy of Dr. Shepard and the historic properties surrounding North Carolina Central University. He was a strong supporter of the Shepard Alliance for Enlightenment, a nonprofit historic preservation fund in the Triangle Community Foundation that is also working to preserve the history of Dr. Shepard and others who worked tirelessly to make North Carolina Central University a "gem" in the UNC system; and he worked diligently alongside his sister, Carolyn Green Boone, J.D., and the members of the Shepard House Restoration Committee to renovate and restore the home of Dr. and Mrs. James E. Shepard on Fayetteville Street in Durham, North Carolina; and

Whereas, in addition to his love of the law, Jimmy Green also loved the arts, particularly acting, which he pursued in high school and college, and photography, an avocation he took up in high school and continued to enjoy over the years as he became

more accomplished and expanded his interests and talents into other areas, including Web site design; and

Whereas, Jimmy Green was, in his youth, a member of Cotton Memorial Presbyterian Church in Henderson, North Carolina, he later joined Covenant Presbyterian Church in Durham, North Carolina, and, in recent years, worshipped at Poplar Springs Christian Church in Raleigh, North Carolina, where he was actively involved with the Board of Directors; and

Whereas, Jimmy Green died on September 27, 2006; and

Whereas, Jimmy Green leaves to cherish his memory his wife, Diane Baker Green; his children, James Preston Green, III; Courtney Green; Kiah Green; and Alexander Green; and his stepdaughter, LaMonda Sykes; his mother, Mrs. Carolyn Marie Smith Green; his sister, Carolyn Green Boone, J.D.; his brother, Isaac H. Green, Sr.; and five adoring nieces and nephews; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life of James Preston "Jimmy" Green, Jr., attorney and civic leader, for his commitment to providing legal services in Raleigh, Durham, Garner, and Henderson and for his dedication to preserving the legacy of Dr. James E. Shepard, founder of North Carolina Central University.

SECTION 2. The General Assembly extends sympathy to the family of James Preston "Jimmy" Green, Jr., for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to the family of James Preston "Jimmy" Green, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Resolution 2007-61 **House Joint Resolution 2065**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DR. JAMES PRESTON GREEN, SR., A PHYSICIAN AND FORMER MEMBER OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES.

Whereas, James Preston Green was born on May 11, 1925, in Henderson, North Carolina, to William and Annie Henderson Green; and

Whereas, James Preston Green received his early education at Central Graded School, graduated high school from Henderson Institute in 1944, and earned a bachelor's of science degree from Johnson C. Smith University, graduating cum laude in 1948; and

Whereas, from 1948-1951, James Preston Green taught biology at Warren County Training School in Wise, North Carolina, and also worked for the Rural Electrification Program, where he sold electricity service and home appliances; and

Whereas, James Preston Green enrolled at Meharry Medical College in Nashville, Tennessee, in 1951, and received his doctor of medicine in 1955; and

Whereas, Dr. Green completed his internship at Kate B. Reynolds Hospital in Winston-Salem, North Carolina, from 1955-1956, and subsequently served on the medical staff at Lakin State Psychiatric Hospital in West Virginia; and

Whereas, Dr. Green was commissioned as a captain in the United States Army and served for two years as a physician in Medical Services at Landstuhl Second General Army Hospital in Germany; and

Whereas, upon his return to the United States, Dr. Green served on staff for one year at Good Samaritan Hospital in Charlotte, North Carolina; and

Whereas, Dr. Green began his long tenure as a dedicated physician in his hometown of Henderson in 1960; and

Whereas, Dr. Green served as chief of staff at Jubilee Hospital until 1966, and subsequently became a charter member of the staff at Maria Parham Hospital, where he was chief of staff from 1972-1973, and retained medical privileges until his retirement in 2003; and

Whereas, Dr. Green also opened a private practice on Horner Street in 1960, and started the Beckford Avenue Medical Center in 1968, where he treated patients often without pay and always without regard to race, age, or economic status; and

Whereas, Dr. Green was instrumental in bringing other dedicated physicians to the Henderson area, including Dr. James Kenney, who came to work at the Beckford Avenue Medical Center in 1972 and continues to practice there, and he demonstrated his dedication to providing medical care to the area's disenfranchised, impoverished, and elderly citizens by establishing HealthCo., a rural health clinic in Soul City, North Carolina; co-founding Pine Crest Manor Nursing and Rest Home in 1972; and helping to organize E. E. Toney Rest Home in Oxford, North Carolina; and

Whereas, Dr. Green was the quintessential "country doctor" who, in addition to his regular practice at the Beckford Avenue Medical Center, made house calls, delivered hundreds of babies, performed surgeries, and responded to emergency calls, including one that required him to be lowered into a collapsed tungsten mine to administer lifesaving medication and care to a trapped worker; and

Whereas, Dr. Green's concern for the welfare of others and his commitment to public service led him to seek elected office; and

Whereas, Dr. Green was the first African-American elected to the City Council of the City of Henderson and served in this capacity as a member for eight years; served as Democratic Party Chairman for the 2nd Congressional District for many years; and was President of the Vance County Voter's League and, in that capacity, played a significant part in increasing the number of registered African-American voters in the county from 500 to 5,000 during the League's inaugural voter registration drive; and

Whereas, Dr. Green was appointed by Governor James B. Hunt to serve in the North Carolina House of Representatives in 1989 to fulfill an unexpired term and was subsequently elected to serve two terms, during which time he used his unique position as "the only doctor in the House" to advance his passion for quality health care for every person in the State and his unwavering quest for equality for every human being; and

Whereas, while serving in the House of Representatives, Dr. Green was Chairman of the Human Resources Subcommittee on Aging and was a member of the Agriculture Subcommittee on Crops and Animal Husbandry; Appropriations Subcommittee on Justice and Public Safety; Commerce Subcommittee on Housing; Education Subcommittee on Community Colleges; and Legislative and Local Redistricting; and

Whereas, Dr. Green was one of the first legislators to sponsor a bill providing financial assistance to seniors who could not afford prescription medicines and, for his

effort to address this emerging need in our State, he was commended in 2002 by the Office of Governor Michael F. Easley at a ceremony at Maria Parham Hospital in Henderson, North Carolina; and

Whereas, Dr. Green served with distinction on numerous boards and commissions, including as chairman of the Governor's Sickle Cell Council for 10 years; president and member of the Old North State Medical Society; and as a member of the Governor's Commission on Fluoridation, the North Carolina Health Care Reform Commission, the North Carolina Mental Health Association, and the National Medical Association, which recently honored him for 50 years of membership and service; and

Whereas, Dr. Green received many awards for his tireless efforts to serve and care for the citizens of the City of Henderson and the State of North Carolina, including the Order of the Long Leaf Pine – the highest civilian award made by the Governor; a Doctor of Humane Letters from North Carolina Central University in 2001 and Johnson C. Smith University in 2002; status as a diplomate of the American Academy of Family Practitioners; the Leadership and Service Award from the Governor's Sickle Cell Council in 1984; the Small Businessman of the Year Award in 1972 from Governor Robert W. Scott; and recognition as the "longest practicing physician" by Maria Parham Hospital in Henderson; and

Whereas, in addition to being a skilled physician and conscientious legislator, Dr. Green was also a visionary and an inventor, who used his experience in treating alcoholics to create a product known as Vitaquil to help minimize the adverse effects of drinking; and

Whereas, Dr. Green was a member and an elder of Cotton Memorial Presbyterian Church, a life member of the National Association for the Advancement of Colored People, a life member of Omega Psi Phi Fraternity, and a member of Sigma Pi Phi Fraternity; and

Whereas, Dr. Green died on May 19, 2006; and

Whereas, Dr. Green was a devoted husband to his beloved wife, Carolyn Marie Smith Green; a loving father to his three children, Attorney James Preston Green, Jr. (deceased), Isaac Hughes Green, Sr., and Carolyn Annette Green Boone, J.D.; a doting grandfather to his 10 grandchildren; a caring and dutiful brother to his siblings; and a loyal friend to many; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life of Dr. James Preston Green, Sr., a physician and former member of the North Carolina House of Representatives, for his dedication to providing quality medical care to the citizens of the City of Henderson and the surrounding communities for over 40 years, and for his commitment to serving the people of this State.

SECTION 2. The General Assembly extends sympathy to the family of Dr. James Preston Green, Sr., for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to the family of Dr. James Preston Green, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 25th day of July, 2007.

Resolution 2007-62 **House Joint Resolution 2063**

A JOINT RESOLUTION HONORING THE TUSKEGEE AIRMEN AND EXPRESSING APPRECIATION FOR THEIR SERVICE DURING WORLD WAR II.

Whereas, during World War II, the armed forces in the United States were still segregated by race; and

Whereas, in 1941 the federal government established the 66th Air Force Flying School at Tuskegee Institute to train African-American pilots for the war; and

Whereas, from 1941 through 1946, almost 1,000 African-Americans trained at the Tuskegee Army Air Field in Tuskegee, Alabama; and

Whereas, 450 of the men who completed training at the Tuskegee Army Air Field were sent overseas for combat duty; and

Whereas, pilots trained at Tuskegee Institute were known as "Tuskegee Airmen," although this phrase also later included navigators, bombardiers, instructors, and maintenance and support staff; and

Whereas, the 99th Fighter Squadron, the first class trained at Tuskegee Institute, was sent to North Africa in the Spring of 1943 for combat duty and in 1944, they were joined by other African-American squadrons to form the 332nd Fighter Squadron, which flew missions over Sicily, the Mediterranean, and North Africa; and

Whereas, the Tuskegee Airmen compiled an outstanding record, which included completing more than 1,500 missions, destroying 260 enemy aircraft, sinking an enemy destroyer, and demolishing other enemy installation areas; and

Whereas, the Tuskegee Airmen achieved an exceptional record for escorting bomber crews and earned the respect of their fellow bomber crews and their military leaders; and

Whereas, the Tuskegee Airmen were nicknamed "Red-Tail Angels" after the red tail markings on their aircraft; and

Whereas, during the war, 66 Tuskegee Airmen were killed in action and 32 were held as prisoners of war; and

Whereas, the success of the Tuskegee Airmen helped end segregation in the military; and

Whereas, in 1948, by Executive Order, President Harry S. Truman desegregated the military; and

Whereas, the Tuskegee Airmen were awarded numerous honors, including the Distinguished Flying Cross (150), Legion of Merit (1), Silver Star (1), Purple Heart (8), Soldier Medal (2), Air Medal and Clusters (744), and the Bronze Star (14); and

Whereas, in 1945, the 332nd Fighter Squadron received a Distinguished Unit Citation for "outstanding performance and extraordinary heroism"; and

Whereas, the Tuskegee Airmen received the Congressional Gold Medal during a ceremony with President George W. Bush on March 29, 2007; and

Whereas, Tuskegee Airmen came from all over the United States, including the following members who were either born in North Carolina or are currently residing in the State:

Harvey R. Alexander, Guilford County
Fred L. Brewer, Jr., Mecklenburg County
Cecil L. Browder, New Hanover County
Willie L. Byrd, Jr., Cumberland County

Marshall S. Caldness, Gaston County
James Y. Carter, Forsyth County
John H. Chavis, Wake County
Walter Chavis, Wake County
Conrad H. Cheek, Halifax County
Quinten V. Cheek, Halifax County
Lewis W. Craig, Buncombe County
John H. Driver, Wake County
Wilson V. Eagleson, Wayne County
Spurgeon N. Ellington, Forsyth County
Charles H. Flowers, Anson County
Stewart Fulbright, Durham County
Willie H. Fuller, Edgecombe County
Vernon V. Haywood, Wake County
George W. Helm, Rockingham County
Aaron Herrington, Wake County
Leonard Hunter, Wake County
Andrew Johnson, Jr., Guilford County
Andrew D. Marshall, Anson County
Harvey L. McClelland, Buncombe County
William McDonald, Durham County
Clinton B. Mills, Durham County
David J. Murphy, Jr., Columbus County
Hernando Palmer, Johnston County
Francis B. Peoples, Vance County
Clarence E. Reynolds, Jr., Hertford County
Robert C. Robinson, Jr., Buncombe County
Graham Smith, Hertford County
Reginald V. Smith, Hertford County
Dr. Chuck Stone, Orange County
Dr. John Turner, Orange County
Morris Washington, Lenoir County
Harold Webb, Wake County
Arthur Wilburn, Buncombe County; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly wishes to honor the memory of the Tuskegee Airmen who gave their lives while rendering service to our country during World War II and pays tribute to Tuskegee Airmen veterans for their bravery and sacrifice.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the President of both the Wilson V. Eagleson and Heart of Carolina Chapters of Tuskegee Airmen, Inc.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of July, 2007.

Resolution 2007-63 **House Joint Resolution 2067**

A JOINT RESOLUTION ACKNOWLEDGING THE CONTRIBUTIONS OF THE SCOTS AND SCOTS-IRISH TO NORTH CAROLINA.

Whereas, April 6 has a special significance for all Americans and especially those Americans of Scottish descent; and

Whereas, on April 6, 1320, the Declaration of Arbroath, the Scottish Declaration of Independence, was signed; and

Whereas, the American Declaration of Independence was modeled on this inspirational document; and

Whereas, almost half the signers of the United States Declaration of Independence were of Scottish descent as were the governors of nine of the original 13 colonies; and

Whereas, more than 27 million Americans can trace their roots back to Scotland and the Scottish plantations of Northern Ireland; and

Whereas, the State of North Carolina was the primary destination of Scots and Scots-Irish immigrants, some of whom became leaders of the State such as Colonial Governors Thomas Pollock and Gabriel Johnston and Governor Samuel Johnston; and

Whereas, North Carolina continues to lead the country in residents with Scottish and Scots-Irish heritage; and

Whereas, North Carolina is home to various festivals and games featuring Scottish culture that are held annually across the State, including the Flora MacDonald Highland Games, Loch Norman Highland Games, Grandfather Mountain Highland Games, Waxhaws Scottish Highland Games, and the Taste of Scotland held in Macon County; and

Whereas, North Carolinians seeking information regarding their Scottish heritage and history can visit numerous museums and institutions throughout the State, including the Scottish Tartans Museum in Franklin; and

Whereas, there are many North Carolina localities named for the area's Scottish settlers or in honor of Scotland including Scotland Neck and Scotland County; and

Whereas, the Carolina Tartan was adopted as the official tartan of the State of North Carolina in 1991; and

Whereas, many organizations and legislative bodies have recognized the month of April as National Scots, Scots-Irish Heritage Month, including the members of the Triad Highland Games, the Triad St. Andrews Society, and the Triad Scottish American Military Society, which declared the recognition on April 6, 2006; and

Whereas, it is fitting that the General Assembly honor the major role that the Scots and Scots-Irish played in the founding of this nation by recognizing the month of April of each year as National Scots, Scots-Irish Heritage Month in the State of North Carolina; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Thomas Pollock, Gabriel Johnston, and Samuel Johnston, all of whom were born in Scotland, for their leadership of and contributions to the development of the State of North Carolina.

SECTION 2. The General Assembly urges the citizens of this State to recognize the month of April of 2008 and every April thereafter as National Scots, Scots-Irish Heritage Month.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Resolution 2007-64 **House Joint Resolution 2069**

A JOINT RESOLUTION HONORING THE FOUNDERS OF MARS HILL COLLEGE DURING THE COLLEGE'S ONE HUNDRED FIFTIETH ANNIVERSARY.

Whereas, Mars Hill College was founded in 1856 by pioneer families that settled in Madison County; and

Whereas, Mars Hill College was chartered by the North Carolina General Assembly in 1859; and

Whereas, Dr. R.L. Moore, a native of Caldwell County, became the 17th president of Mars Hill College in 1898 and served in that position for 41 years; and

Whereas, during Dr. Moore's tenure as president, he helped guide the college during its move to a full and accredited junior college, allowing Mars Hill to become one of the premier junior colleges in the country at that time; and

Whereas, a photo history book about Mars Hill College, Through the Long Years, stated "Over the next 41 years, Dr. Moore led in the erection of nine new buildings and the improvement of other facilities, increased the faculty and the enrollment, transformed the academic programs to the junior college curriculum, significantly raised the college's reputation in the academic world so that graduates could easily transfer to senior colleges, greatly upgraded communication with constituents through publications, and achieved and maintained financial stability. By the time he retired in June 1938 the college was in good shape and ready for a new and promising era."; and

Whereas, Mars Hill College transitioned to a four-year college in the early 1960s, awarding its first baccalaureate degrees in 1964; and

Whereas, today, Mars Hill College offers 30 majors and 33 minors and serves the needs of adults in the region by offering evening classes in six counties; and

Whereas, Mars Hill College is the home of the Liston B. Ramsey Center for Regional Studies; and

Whereas, Mars Hill College continues its longstanding mission to educate first-generation college students, awarding $2 million in Title III grants and having a large number of participants in the Bonner Scholars Program; and

Whereas, 60% of the students enrolled at Mars Hill College are North Carolinians; and

Whereas, more western North Carolina K-12 teachers come from Mars Hill College than any other private institution; and

Whereas, in a recent statewide review of all teacher preparation programs, Mars Hill College was ranked fourth among the 31 private North Carolina institutions; and

Whereas, Mars Hill College was among the first institutions of higher education in the State to be fully integrated and has consistently led the Western North Carolina colleges in percentage of minority enrollment; and

Whereas, Mars Hill College is the oldest institution of higher education in Western North Carolina still located on its original site and is the home of the Mars Hill College Historic District, which is listed on the National Register of Historic Places; and

Whereas, Mars Hill College was one of the first institutions of higher education to give emphasis to service learning for undergraduates, which has contributed to the institution's alumni as being known as some of the most dedicated and service-oriented students; and

Whereas, Mars Hill College has approximately 19,000 living alumni, of which more than 10,000 are North Carolina residents; and

Whereas, many of Mars Hill College's alumni have found success as college and university presidents and chancellors; and

Whereas, Mars Hill College alumni include Lamar Stringfield, founder of the North Carolina Symphony, and Douglas Ferguson, founder of the Pigeon Forge Pottery; and

Whereas, Mars Hill College competes in 19 intercollegiate sports as a member of the NCAA Division II; and

Whereas, Mars Hill College contributes to the economy of Madison County, serving as the second largest employer in the County; and

Whereas, Mars Hill College is the birthplace of Bascom Lamar Lunsford, known as the "Minstrel of the Appalachians"; and

Whereas, Mars Hill College is home of the Southern Appalachian Repertory Theatre and the Bailey Mountain Cloggers, 13-time national champions; and

Whereas, Mars Hill College has been having a yearlong celebration in honor of its 150th anniversary; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly recognizes and honors the founders of Mars Hill College for their vision, commends the institution for its contributions to North Carolina and its people, and extends congratulations on the institution's sesquicentennial anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the President of Mars Hill College.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Resolution 2007-65 **Senate Joint Resolution 1569**

A JOINT RESOLUTION HONORING THE ACCOMPLISHMENTS OF JOE THOMPSON AND THE LATE ODELL THOMPSON, LEGENDARY NORTH CAROLINA MUSICIANS.

Whereas, many North Carolinians have received local, national, and international acclaim for their unique talents, including musicians and cousins Joe Thompson and Odell Thompson; and

Whereas, Joe Thompson and Odell Thompson were born into a family of talented musicians, including their fathers John Arch Thompson and Walter Thompson and their grandfather, Bob Thompson, all of whom learned and continued the musical techniques passed down by their ancestors; and

Whereas, without any formal lessons, Joe Thompson began playing the fiddle at the age of five and soon joined his father and other family members in playing music at square dances and frolics for both white and black audiences in their rural northern Orange County community; and

Whereas, during the 1930s and 1940s, Joe Thompson, along with his brother, Nathaniel Thompson, and his cousin, Odell Thompson, both on banjo, performed as a traditional fiddle and banjo ensemble for various social events; and

Whereas, Joe Thompson was not only a talented fiddle player but also a gifted singer and square dance caller; and

Whereas, during World War II, Joe Thompson served in the United States Army from 1942 to 1945 and, upon his return to the United States, found that his style of music was no longer popular; and

Whereas, Joe Thompson later moved to Mebane, North Carolina, and provided for his family by working for a local furniture company for more than 35 years; and

Whereas, Odell Thompson settled in Alamance County with his family and worked for a local mattress company for 20 years; and

Whereas, during the early 1970s, Joe Thompson and Odell Thompson were encouraged to resume performing and found new audiences eager to hear them play; and

Whereas, Joe Thompson and Odell Thompson played at family gatherings and performed for radio and television audiences; and

Whereas, Joe Thompson and Odell Thompson became well known for their music and were featured at the National Folk Life Festival in Washington, DC, the National Folk Festival in Lowell, Massachusetts, Festival of American Fiddle Tunes in Port Townsend, Washington, and the International Music Festival in Brisbane, Australia; and

Whereas, Joe Thompson and Odell Thompson also performed at Carnegie Hall and participated in various workshops and conferences; and

Whereas, Joe Thompson and Odell Thompson received numerous honors, including the Brown-Hudson Award from the North Carolina Folklore Society, the North Carolina Heritage Award, and the Folk Heritage Award from the National Endowment for the Arts; and

Whereas, Joe Thompson was named one of the 12 recipients of the 2007 National Endowment for the Arts National Heritage Fellowships, the nation's highest honor in the folk and traditional arts; and

Whereas, Joe Thompson and Odell Thompson thrilled audiences worldwide until Odell's death in 1994; and

Whereas, Joe Thompson has continued to play the fiddle, teaching at international fiddle and banjo conventions and mentoring a new generation of African-American string band musicians; and

Whereas, at the age of 88, Joe Thompson is considered by many to be the oldest if not the last African-American fiddler in North Carolina; and

Whereas, Joe Thompson has had a profound impact on traditional string band music and thus has earned the admiration of the people of this State and the world; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Odell Thompson and expresses its appreciation for his invaluable contributions to North Carolina's cultural heritage.

SECTION 2. The General Assembly wishes to pay tribute to native son Joe Thompson, a fiddler of enormous talent and vision, for his accomplishments as a musician and for his role in preserving the heritage of African-American string band music.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Joe Thompson and the family of Odell Thompson.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

Resolution 2007-66 **Senate Joint Resolution 1571**

A JOINT RESOLUTION HONORING THE MEMORY OF ROBERT RUARK, NOTED NORTH CAROLINA HALL OF FAME AUTHOR AND JOURNALIST.

Whereas, Robert Chester Ruark was born on December 29, 1915, and died on July 1, 1965, was a native of Wilmington, but spent much of his youth under the care of his grandparents in Southport, North Carolina, later turning his fondest childhood experiences into a successful literary account about coming-of-age lessons of integrity, compassion, and a love for the outdoors; and

Whereas, Robert Ruark entered The University of North Carolina at age 15, thereafter, graduating at age 19 with a Bachelor of Arts degree in Journalism before beginning a stellar literary career as a novelist, reporter, columnist, navy officer, and author; and

Whereas Robert Ruark made literary contributions to the genre of fiction with his widely popular historical romance, Grenadine Etching, in 1947; and

Whereas, Robert Ruark began his journalist career with a series of small town North Carolina newspapers, including the Sanford Herald, and later became employed in Washington, D.C., as a sports writer for the Daily News where he met and married a prominent interior designer, Virginia Webb; and

Whereas, Robert Ruark advanced rapidly as a talented journalist from war correspondent to columnist syndicated in hundreds of national and international newspapers with a readership in the millions; and

Whereas, Robert Ruark's stories were also featured in prominent national magazines, including Field and Stream, and Esquire, where his boyhood experiences of hunting and fishing with his grandfathers in Southport led to the publication of his most popular work, The Old Man and the Boy, that to this day remains a sportsman's classic and in continuous print; and

Whereas, Robert Ruark later became a recognized authority on the politics of Kenya and East African struggles for freedom with the release of the documentary Africa Adventure, which became the basis for the publication of his best selling novel,

Something of Value, based on the Mau Mau uprisings against British colonialism, in 1955 that later was produced as a major Hollywood film, and followed in 1967 by the sequel Uhuru; and

Whereas, Robert Ruark authored seven other books, among them, Poor No More, Horn of the Hunter, The Honeybadger, and The Old Man's Boy Grows Older; and

Whereas, Robert Ruark was affectionately known as "The Poor Man's Hemingway" for his candid recollections of the things he truly knew from experience and is widely recognized as one of North Carolina's most accomplished authors; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Robert Ruark for his contributions to literature.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Robert Ruark Society of Chapel Hill and the Robert Ruark Foundation of Southport, North Carolina.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

Resolution 2007-67 **Senate Joint Resolution 1572**

A JOINT RESOLUTION ACKNOWLEDGING THE FINDINGS OF THE 1898 WILMINGTON RACE RIOT COMMISSION.

Whereas, public knowledge and historical memory of the 1898 Wilmington Race Riot was obscure until the North Carolina General Assembly, led by Representative Thomas E. Wright and the late Senator Luther Jordan, established the Wilmington Race Riot Commission ("Commission") in 2000 to develop a historical record of the event and to assess the economic impact of the riot on African-Americans in Wilmington and across the Eastern region and the State; and

Whereas, the Commission, chaired by Representative Wright and Senator Julia Boseman, both of Wilmington, oversaw a formal investigation of the events of 1898 and approved a 464-page report, detailing the history of the riot and the events that precipitated it; and

Whereas, the Commission's report concluded that political leaders and others were directly responsible for and participants in the violence of November 10, 1898, engineering and executing a statewide campaign to win the 1900 elections that was vicious, polarizing, and defamatory toward African-Americans and that encouraged violence; and

Whereas, the effects of that campaign and the Wilmington Riots lasted far beyond 1898, paving the way for legislation that disenfranchised African-American and poor white citizens, for lynching and violence against African-American citizens, and for Jim Crow segregation until the Civil Rights Movement of the 1960s; and

Whereas, the State of North Carolina embraces the Commission's report as a chronicle of an important part of State history, but it is saddened by the full extent of leaders' involvement in the 1898 Wilmington Race Riot as these deplorable actions contradict the spirit of a modern State; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly of North Carolina acknowledges the 1898 Wilmington Race Riot Commission's findings and expresses profound regret that violence, intimidation, and force were used to replace a duly elected local government, that people lost their livelihoods and were forced to leave their homes, and that the government was unsuccessful in protecting its citizens during that time.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Resolution 2007-68 **Senate Joint Resolution 1573**

A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 2007 GENERAL ASSEMBLY TO MEET IN 2008 AND LIMITING THE SUBJECTS THAT MAY BE CONSIDERED IN THAT SESSION.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the Senate and the House of Representatives adjourn on Thursday, August 2, 2007, they stand adjourned to reconvene on Tuesday, May 13, 2008, at 12:00 noon.

SECTION 2. During the regular session that reconvenes on Tuesday, May 13, 2008, only the following matters may be considered:

(1) Bills directly and primarily affecting the State budget, including the budget of an occupational licensing board, for fiscal year 2008-2009, provided that the bill must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Friday, May 16, 2008, and must be introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Tuesday, May 27, 2008.

(2) Bills amending the Constitution of North Carolina.

(3) Bills and resolutions introduced in 2007 and having passed third reading in 2007 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(d) as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and which do not violate the rules of the receiving house.

(4) Bills and resolutions implementing the recommendations of:

a. Study commissions, authorities, and statutory commissions authorized or directed to report to the 2008 Session;

b. The General Statutes Commission, the Courts Commission, or any commission created under Chapter 120 of the General Statutes that is authorized or directed to report to the General Assembly;

c. The House Ethics Committee;

d. Select committees; or

e. The Joint Legislative Ethics Committee or its Advisory Subcommittee.

A bill authorized by this subdivision must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Wednesday, May 14, 2008, and must be filed for introduction in the Senate or introduced in the House of Representatives no later than 4:00 P.M. Wednesday, May 21, 2008.

(5) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. Wednesday, May 21, 2008, is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Wednesday, May 28, 2008, and is accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and that the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies.

(6) Selection, appointment, or confirmation of members of State boards and commissions as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.

(7) Any matter authorized by joint resolution passed during the 2008 Regular Session by a two-thirds majority of the members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.

(8) A joint resolution authorizing the introduction of a bill pursuant to subdivision (6) of this section.

(9) Any bills primarily affecting any State or local pension or retirement system, provided that the bill has been submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Wednesday, May 21, 2008, and is introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Wednesday, May 28, 2008.

(10) Joint resolutions, House resolutions, and Senate resolutions authorized for introduction under Senate Rule 40(b) or House Rule 31.

(11) A joint resolution adjourning the 2007 Regular Session, sine die.

(12) Bills to disapprove rules under G.S. 150B-21.3.

SECTION 3. A bill containing no substantive provisions may not be introduced in the House of Representatives during the 2008 Regular Session.

SECTION 4. The Speaker of the House of Representatives or the President Pro Tempore of the Senate may authorize appropriate committees or subcommittees of their respective houses to meet during the interims between sessions to:

(1) Review matters related to the State budget for the 2007-2009 biennium,

(2) Prepare reports, including revised budgets, or

(3) Consider any other matters as the Speaker of the House of Representatives or the President Pro Tempore of the Senate deems appropriate, except that no committee or subcommittee of a house may consider, after the date of adjournment provided in Section 1 of this resolution and before the date of reconvening provided in Section 2 of this resolution, any bill, or proposed committee substitute for such bill, which originated in the other house. A conference committee may meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

SECTION 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Resolution 2007-69 Extra Session **House Joint Resolution 2**

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2007 EXTRA SESSION.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. When the House of Representatives and the Senate, constituting the 2007 Extra Session of the General Assembly, do adjourn on Tuesday, September 11, 2007, they stand adjourned sine die.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of September, 2007.

Resolution 2007-70 Extra Session **Senate Joint Resolution 1575**

A JOINT RESOLUTION ADJOURNING THE RECONVENED SESSION, AND CORRECTING A CROSS-REFERENCE IN THE ADJOURNMENT RESOLUTION.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the House of Representatives and the Senate, constituting the Reconvened 2007 Session of the 2007 General Assembly, adjourn, they stand adjourned to reconvene as provided in Resolution 2007-68.

SECTION 2. Section 2(8) of Resolution 2007-68 reads as rewritten:

"(8) A joint resolution authorizing the introduction of a bill pursuant to ~~subdivision (6)~~ subdivision (7) of this section."

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of September, 2007.

EXECUTIVE ORDERS
OF
GOVERNOR MICHAEL F. EASLEY

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MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 106

HISTORICALLY UNDERUTILIZED BUSINESSES

WHEREAS, it is North Carolina's collective expectation that all citizens of the state will be given equal opportunities to participate in providing State government with the goods and services it requires; and

WHEREAS, it is my expectation, as Governor of the State, that this will be accomplished without regard to race, gender, or disabling condition; and

WHEREAS, when the General Assembly set the purchasing policy for the State, it encouraged State agencies to provide contracting opportunities for small and historically underutilized businesses (hereinafter "HUBs") as defined in North Carolina General Statutes §143-48, which include businesses owned by minorities, women, and the disabled; and

WHEREAS, it is my desire that a coordinated effort is undertaken to eliminate any barriers which may have acted as impediments to equal opportunities for HUBs in doing business with the State.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of North Carolina, **IT IS ORDERED:**

Each executive branch agency should strive to increase the total amount of goods and services acquired by it from HUB vendors, whether directly as principal contractors or indirectly as subcontractors or otherwise. It is expected that each agency will issue an aspirational goal of

at least ten percent (10%), by dollar amount, of the State's purchases of goods and services that will be derived from minority owned businesses and at least five percent (5%) that will be derived from disabled and women owned businesses.

The HUBs Office shall assist each agency in developing a plan and providing technical assistance to reach the recommended objectives related to the purchase of goods and services.

The State Purchasing Officer, the Director of the State Construction Office, and the Director of the State Property Office shall continue to implement guidelines and procedures that ensure that the State's contracts contain specific requirements that compel contractors doing business with the State to comply with federal Equal Employment Opportunity Requirements or their equivalent.

The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, local boards of education, and each of heads of the Council of State agencies are encouraged and invited to participate in this Executive Order.

This order supersedes any previously issued order, is effective immediately, and remains in effect until December 31, 2008, unless earlier modified.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-eighth day of August in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 107
PROCLAMATION OF A STATE OF EMERGENCY
DUE TO TROPICAL STORM ERNESTO

WHEREAS, I have determined that a state of emergency, as defined in G.S. §166A-4 and G.S. §14-288.1(10), exists in the State of North Carolina, due to the approach and proximity of Tropical Storm Ernesto, beginning on August 31, 2006.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to G.S. §§166A-5 and 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Bryan E. Beatty, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. §143B-476.

Section 5. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This proclamation shall become effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirty-first day of August in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 108

TO DECLARE BY PROCLAMATION THE TRUE BOUNDARY LINE BETWEEN THE STATE OF NORTH CAROLINA AND THE STATE OF SOUTH CAROLINA ALONG THE COUNTIES OF JACKSON AND TRANSYLVANIA

WHEREAS, the Joint North Carolina/South Carolina Boundary Commission determined at its duly-convened meeting on December 11, 1997, to establish the true boundary line between the states along the North Carolina county of Jackson and a portion of the county of Transylvania; and

WHEREAS, both states have undertaken the necessary steps to locate, survey, and mark the 19.3-mile segment of the boundary, as identified through historical research and field work and by using the Global Positioning System ("GPS"); and

WHEREAS, pursuant to N.C.G.S. § 141-5, the completion of the survey of the above-described boundary has been reported to the undersigned Governor Michael F. Easley and placed before and approved by the Council of State on July 11, 2006; and

WHEREAS, N.C.G.S. § 141-5 further requires that the Governor issue a Proclamation declaring the reported and approved survey line to be the true boundary of the State of North Carolina.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

(1) That, pursuant to the provisions of N.C.G.S. § 141-5, the true boundary line between the State of North Carolina and the State of South Carolina along the county of Jackson and a portion of the county of Transylvania is hereby declared, by PROCLAMATION, to be the surveyed line represented on the attached plat of the completed survey captioned as North Carolina/South Carolina State Boundary from Indian Camp Boundary to the Chattooga River, dated May 2005, and which is described by a monument located at Latitude 35° 05' 07.96294" North, Longitude 082° 47' 01 .49862" West (North American Datum 1983-86 "NAD 83-86"), and marked by the "•" inside a triangle on a brass disk stamped with "BLACKBURN, 1996, NORTH CAROLINA, SOUTH CAROLINA, STATE

BOUNDARY LINE" and set in a concrete monument; thence from said point following a geodetic line to a monument located at Latitude 35° 00' 04.88130" North and Longitude 083° 06' 30.84455" West, NAD 83-86, marked by the "┼" in the inscription "LAT 35, AD 1813, NC ┼ SC" chiseled on Commissioners' Rock on the east bank of the Chattooga River; thence following a geodetic line with a geodetic azimuth of 270 degrees to the centerline of the Chattooga River.

(2) That the North Carolina Geodetic Survey of the Department of Environment and Natural Resources, and the North Carolina State Property Office of the Department of Administration continue to retain and manage sufficient and necessary records of the state boundary marking and re-markings, including but not limited to this Executive Order.

This Executive Order shall take effect immediately and remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-fifth day of September in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 109
PROCLAMATION OF STATE OF DISASTER
FOR JONES COUNTY AND DUPLIN COUNTY

WHEREAS, I have determined that a State of Disaster and State of Emergency, as defined in N.C.G.S. §§166A-4 and 14-288.1(10), exists in the State of North Carolina, specifically Jones County and Duplin County as a result of the damage done by Tropical Storm Ernesto on August 31, 2006, through September 3, 2006;

WHEREAS, on August 31, 2006, Jones County proclaimed a local State of Emergency;

WHEREAS, on September 18, 2006, Duplin County proclaimed a local State of Emergency;

WHEREAS, pursuant to N.C.G.S. §166A-6, the criteria of a Type I disaster are met including the following: (1) receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; (2) Jones County and Duplin County declared a local state of emergency pursuant to N.C.G.S. §166A-8 and N.C.G.S. §§14-288.12, 14-288.13, and 14-288.14, and forwarded a written copy of the declaration to the Governor; (3) the preliminary damage assessment meets or exceeds the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123, or meets or exceeds the State infrastructure criteria set out in N.C.G.S. §166A-6.01(b)(2)a; and, (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Pursuant to N.C.G.S. §§166A-6 and 14-288.15, a State of Disaster and State of Emergency is hereby declared for Jones County and Duplin County.

Section 2. State and local government entities and agencies are hereby ordered to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. Bryan E. Beatty, Secretary of Crime Control and Public Safety and/or his designee, is hereby delegated all power and authority granted to me and required of me by Chapter 166A and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in the above-referenced counties.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer of the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. §143B-476.

Section 5. I authorize this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of disaster and state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and state of emergency and Type I disaster proclamation for Jones County and Duplin County, issued on October 10, 2006, unless renewed by the Governor or the General

Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date for first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this tenth day of October in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 110

EXTENDING EXECUTIVE ORDER NO. 109
PROCLAMATION OF STATE OF DISASTER
FOR JONES COUNTY AND DUPLIN COUNTY

WHEREAS, on October 10, 2006, Executive Order No. 109, which proclaimed a State of Disaster and State of Emergency in Jones and Duplin counties as a result of the damage done by Tropical Storm Ernesto on August 31, 2006, through September 3, 2006, was issued and is hereby extended until December 9, 2006.

This executive order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of November in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 111
PROCLAMATION OF A STATE OF DISASTER
FOR COLUMBUS COUNTY

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. §§166A-6, exists in the State of North Carolina, specifically Columbus County, as a result of severe weather on November 16, 2006;

WHEREAS, on November 16, 2006, Columbus County proclaimed a local State of Emergency;

WHEREAS, pursuant to N.C.G.S. §166A-6, the criteria of a Type I disaster are met including the following: (1) receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; (2) Columbus County declared a local state of emergency pursuant to N.C.G.S §§166A-8, 14-288.13, and 14-288.14, and forwarded a written copy of the declaration to the Governor; (3) the preliminary damage assessment meets or exceeds the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. §§166A-6 and 14-288.15, a State of Disaster is hereby declared for Columbus County.

Section 2. State and local government entities and agencies are hereby ordered to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. Bryan E. Beatty, Secretary of Crime Control and Public Safety, and/or his designee, is hereby delegated all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. §143B-476.

Section 5. I authorize this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of disaster prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This Type I Disaster Declaration shall expire 30 days after issuance of the state of disaster and Type I disaster proclamation for Columbus County issued on November 17, 2006, unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance. The

Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventeenth day of November in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 112
NOTICE OF TERMINATION
OF EXECUTIVE ORDER NO. 107
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, Executive Order No. 107, Proclamation of a State of Emergency, was signed on August 31, 2006, declaring a State of Emergency due to the approach and proximity of Tropical Storm Ernesto beginning on August 31, 2006; and,

WHEREAS, the Proclamation contained the provision that it would be effective until terminated in writing.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED**:

That the Executive Order declaring a State of Emergency signed on August 31, 2006, is hereby terminated, effective as of 5:00 p.m. on the date signed below, due to the ending of that emergency.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-first day of November in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.



Mike Easley
Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Elaine F. Marshall
Secretary of State

State of North Carolina

MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 113
PROCLAMATION OF A STATE OF EMERGENCY
FOR DARE COUNTY

WHEREAS, I have determined that a state of emergency, as defined in G.S. §§166A-4 and 14-288.1(10), exists in the State of North Carolina, specifically Dare County, where the primary transportation route, Highway 12, has been severely compromised as a result of severe weather on November 22, 2006.

WHEREAS, on November 22, 2006, Dare County proclaimed a local State of Emergency;

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to G.S. §§166A-5 and 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Bryan E. Beatty, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. §143B-476.

Section 5. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed

with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This proclamation shall become effective immediately, and shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-ninth day of November in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 114
EXTENDING EXECUTIVE ORDER NO. 109
PROCLAMATION OF STATE OF DISASTER
FOR JONES COUNTY AND DUPLIN COUNTY

WHEREAS, on October 10, 2006, Executive Order No. 109, which proclaimed a State of Disaster and State of Emergency in Jones and Duplin counties as a result of the damage done by Tropical Storm Ernesto on August 31, 2006, through September 3, 2006, was issued and extended by Executive Order No. 110 on November 9, 2006; and is hereby further extended until January 8, 2007.

This executive order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of December in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirty-first.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 115
AMENDING EXECUTIVE ORDER NO. 91
GOVERNOR'S TASK FORCE FOR HEALTHY CAROLINIANS

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED THAT**:

Section 2. v. of Executive Order No. 91 issued by Michael F. Easley on September 27, 2005, is hereby amended as follows:

Section 2. Membership

v. Representative of a statewide organization whose primary goal is to promote physical activity.

This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifth day of January in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-first.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 116
TERMINATION OF EXECUTIVE ORDER NO. 1, AND
DESIGNATION OF CERTAIN STATE EMPLOYEES AS COVERED
"PUBLIC SERVANTS" UNDER THE STATE GOVERNMENT ETHICS ACT

WHEREAS, Executive Order No. 1 was signed on January 12, 2001, providing for a comprehensive procedure to ensure and maintain the highest level of integrity in the Office of the Governor, and all other state executive departments which choose to be included; and,

WHEREAS, the 2006 North Carolina General Assembly enacted, and the Governor signed into law on August 4, 2006, the State Government Ethics Act (hereinafter "Act"), Session Law 2006-201, which took full effect on January 1, 2007. The Act, although patterned on Executive Order No. 1, is more comprehensive in scope and applies to all three branches of state government; and,

WHEREAS, the Act, although comprehensive, has failed to include a small group of officials who were previously covered under Executive Order No. 1; and,

WHEREAS, the Act, [NCGS §138A-3 (30) g] authorizes the Governor to designate other state employees or appointees as "public servants" under the Act.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

EXECUTIVE ORDER NO. 1, dated January 12, 2001, is terminated, along with all subsequent amendments to Executive Order No. 1. Furthermore, pursuant to NCGS §138A-3 (30) g, I designate the following state employees or appointees as covered "public servants" under the State Government Ethics Act:

- Thomas H. Wright, State Personnel Director
- Robert L. Powell, State Controller
- George Bakolia, Chief Information Officer (ITS)
- Lawrence J. Wheeler, Director, State Museum of Art
- Vacant, Executive Director, Agency for Public Telecommunication
- George E. Tatum, Commissioner of Motor Vehicles
- Joseph A. Smith, Commissioner of Banks
- David B. Hanson, Deputy Commissioner, Banking Commission
- Mark E. Pearce, Deputy Commissioner, Banking Commission
- R. Kucab, Executive Director, NC Housing Finance Agency

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of January in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-first.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 117
AMENDING EXECUTIVE ORDER NO. 116,
DESIGNATION OF CERTAIN STATE EMPLOYEES AS COVERED "PUBLIC SERVANTS" UNDER THE STATE GOVERNMENT ETHICS ACT

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED THAT**:

Executive Order No. 116, Designation of Certain State Employees as Covered "Public Servants" Under the State Government Ethics Act, issued by Michael F. Easley on January 26, 2007, is hereby amended as follows:

The following individuals are included as state employees or appointees as covered "public servants" under the State Government Ethics Act:

- David Joyner, Executive Director, North Carolina Turnpike Authority
- Steve DeWitt, Chief Engineer, North Carolina Turnpike Authority
- Grady Rankin, Chief Financial Officer, North Carolina Turnpike Authority
- Jim Eden, Chief Operating Office, North Carolina Turnpike Authority

This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixth day of March in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-first.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 118
CONTINUITY OF OPERATIONS PLANNING

WHEREAS, pursuant to Executive Order No. 102 which remains in effect, good progress has been made in Continuity of Operations and Continuity of Government planning, particularly with regard to identification of alternate work facilities; and

WHEREAS, the possibility of a pandemic influenza event is real and demands planning effort in government as well as the private sector; and

WHEREAS, efforts are well underway to minimize the effects of pandemic influenza on North Carolina citizens; and

WHEREAS, personnel shortages that could result from a pandemic influenza or other widespread disease event have not heretofore been included in Continuity of Operations planning; and

WHEREAS, should multiple State agencies at once need alternate work facilities or to continue work during significant personnel shortages, an overarching Continuity of Operations plan for State Government is necessary to assure a coordinated response; and

WHEREAS, a standard format will lead to more consistent, understandable, and executable Continuity of Operations plans;

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1. By August 1, 2007, each North Carolina Executive Branch agency (at the Division level) will include in its Continuity of Operations Plan provisions to deal with a pandemic influenza event. Plans will be developed using guidance available from the North Carolina Office of State Personnel, the North Carolina Division of Public Health, and the Federal Emergency Management Agency.

Section 2. The North Carolina State Government Complex Continuity of Operations Plan, dated June 4, 2007, is promulgated by this Order. All North Carolina Executive Branch agencies are directed to cooperate in implementing provisions of this plan.

Section 3. The Secretary of Crime Control and Public Safety, through the Division of Emergency Management is designated executive agent for the North Carolina State Government Complex Continuity of Operations Plan. The Secretary, with necessary coordination, will exercise approval authority for changes to this plan and assure it is reviewed at least annually and updated as necessary. The Department of Administration remains the lead agency for purposes of procuring and assigning alternate facilities to displaced agencies.

Section 4. Agency heads are reminded that an annual review of Continuity of Operations plans is due on November 1 of each year. Continuity of Operations plans are to be updated as necessary. Compliance with this requirement should be documented by reports submitted by November 15 each year from Executive Branch department heads to the Director of Emergency Management.

Section 5. By November 1, 2008, each North Carolina Executive Branch agency will revise its Continuity of Operations plan to conform to a standard format based on guidance from the Federal Emergency Management Agency and provided by the Secretary of Crime Control and Public Safety through the Division of Emergency Management.

Section 6. As with Executive Order No. 102, State agencies outside the Executive Branch and not directly subject to this order are invited and encouraged to comply with this order and to participate fully in the North Carolina Continuity of Operations planning effort.

Section 7. This order, together with Executive Order No. 102, will remain in effect until amended or rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fourth day of June in the year of our Lord two thousand and seven, and of the independence of the United States the two hundred thirty-first.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 119
EXTENDING EXECUTIVE ORDER NO. 77,
TEACHER ADVISORY COMMITTEE

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED THAT**:

Executive Order No. 77 regarding the Teacher Advisory Committee is hereby extended until June 15, 2009.

This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eleventh day of June in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-first.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 120
ACCELERATING TEACHER AND OTHER PERSONNEL RECRUITMENT AND THE IMPLEMENTATION OF NEEDED ACADEMIC SUPPORT PROGRAMS FOR AT-RISK CHILDREN IN LIGHT OF JUDICIAL MANDATES, BUDGET DEVELOPMENTS, AND IMPENDING SCHOOL OPENINGS

WHEREAS, the 2007 General Assembly enacted House Bill 2044, which keeps state government operating through July 31, 2007, and which provides additional funding for enrollment increases and which was signed into law on June 29, 2007; and

WHEREAS, in the budget submitted to the General Assembly for the 2007-09 fiscal years, I recommended funding to meet the increased operation costs of our public schools while providing for the needs of disadvantaged students; and

WHEREAS, public schools across the state must plan now for their opening in a few weeks, and the state court monitoring of North Carolina's effort to ensure a sound, basic education for every student continues; and

WHEREAS, in the school funding lawsuit, known as *Leandro*, the Court stated that at a minimum every school must be provided the resources necessary to support an effective instructional program within that school so that the educational needs of all children, including at-risk children, can be met; and

WHEREAS, the Court has isolated particular problems of meeting the needs of at-risk students in North Carolina's high schools and outlined the need for the state to bring together the "combined expertise, educators, resources, and money to fix the 'high school problem' so that the children attending those schools will be provided with the opportunity to obtain a sound, basic education;" and

WHEREAS, the Court has scheduled a *Leandro* hearing for August 1 and 2, 2007, to inquire into the proficiency of middle schools and the best practices for ensuring proficiency; and

WHEREAS, pre-kindergarten programs for at-risk children and class size reduction are necessary for improving educational opportunities and outcomes for children across North Carolina; and

WHEREAS, these programs are fundamental to addressing the needs of at-risk students, eliminating the achievement gap, reducing the State's persistently high dropout rate, increasing college enrollments, and meeting other educational challenges; and

WHEREAS, House Bill 1473, "The 2007 Appropriations Act," under consideration by the House and Senate has not been passed; and

WHEREAS, while the General Assembly continues working to ratify a final budget I can approve, the school year for the majority of North Carolina's children is about to begin and preplanning, hiring, and facilities preparation must take place.

NOW THEREFORE, in light of the factual circumstances set forth above, including the decision in *Leandro*, and under the legal authority vested in me as Governor by Article I, Section 15 of the Constitution of North Carolina (which states that "The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right."), Article III of the Constitution of North Carolina, and N.C.G.S. §143C-6-4, I hereby **AUTHORIZE AND INSTRUCT**:

Section 1. The Director of the More at Four Pre-Kindergarten Program to recruit the teachers necessary to expand the program; and

Section 2. The Superintendent of Public Instruction, working with and through local school system superintendents, to put into place the additional teachers and academic support programs needed to support the achievement of at-risk students in districts eligible for Disadvantaged Student Supplemental Funding and to keep class size ratios at current levels.

This Executive Order is effective July 20, 2007.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twentieth day of July in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-first.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 121
NORTH CAROLINA FILM COUNCIL

By the authority vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED**:

Section 1. Establishment.

The North Carolina Film Council is hereby established.

Section 2. Duties.

The Council shall have the following duties and functions:

a. Advise the Governor on matters that would enhance the likelihood of the film industry choosing North Carolina for filmmaking.

b. Advise the Secretary of Commerce and the Film Division in the Department of Commerce on film-making activities within North Carolina.

c. Serve as a forum for film-making concerns and recommendations relating to the film industry in North Carolina that would include, but not be all inclusive of, the following:

1. Assist in updating and maintaining a database registry of locations within North Carolina that would be potential sites for filmmaking;
2. Develop the financial capability of North Carolina to support projects with local financing of the film industry;
3. Develop a support network for production activities relating to the film industry;
4. Assist in updating and maintaining a manual for the use of local governments and municipalities detailing supportive activities that would facilitate filmmaking in their communities;

5. Assist in the support and coordination of the activities of local film commissions in North Carolina;
6. Provide advice on projects directly assigned by the Governor to the Council;
7. Assist with recruitment of the film industry to select North Carolina sites for filmmaking; and
8. Assist in the preparation of an annual report on the economic impact of the film-making industry in North Carolina, along with recommendations to increase the filmmaking activities within North Carolina.

Section 3. Membership.

The Council shall consist of no more than 25 voting members who shall be appointed by the Governor including:

a. representatives of the film industry within the state representing acting, production, directing, producing, and film studio management;
b. representatives of state or local government; and
c. citizens' at-large members.

Section 4. Terms of Membership.

All members shall be appointed for a term of three years.

Section 5. Vacancies.

A vacancy occurring during a term of appointment is filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 6. Travel Expense.

Members of the Council shall receive necessary travel and subsistence expenses, when available, from Department of Commerce funds, pursuant to N.C.G.S. §138-5.

Section 7. Officers.

The Chair and Vice Chair of the Council shall be appointed by the Governor and serve at the pleasure of the Governor. The Council may elect other such officers as it deems necessary.

Section 8. Meetings.

The Council shall meet at least three times yearly and at other times at the call of the Chair or upon written request a least ten of its members.

Section 9. Staff Assistance.

The Department of Commerce shall provide clerical support and other services required by the Council.

This Executive Order shall be effective immediately and rescinds Executive Order No. 79.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirtieth day of July in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-first.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 122
REPLACING EXECUTIVE ORDER NO. 74
CONCERNING CREATION OF A PROGRAM OFFICE, A POLICY BOARD, AND ADVISORY COMMITTEES, TO SUPPORT SUSTAINABLE NATURAL RESOURCE AND ENVIRONMENTAL MANAGEMENT IN THE ALBEMARLE-PAMLICO ESTUARINE SYSTEM

WHEREAS, the Albemarle-Pamlico National Estuary Program (APNEP), formerly known as the Albemarle-Pamlico Estuarine Study, is a cooperative effort established by the State of North Carolina and the United States Environmental Protection Agency; and

WHEREAS, the mission of the APNEP is to identify, restore, and protect the significant resources in the Albemarle-Pamlico estuarine system in North Carolina and southeast Virginia; and

WHEREAS, the APNEP is a collaborative effort involving state, federal, regional, local, educational, and public entities in the protection and enhancement of the Albemarle-Pamlico estuarine system; and

WHEREAS, Congress designated the Albemarle-Pamlico estuarine system as an "estuary of national significance" in 1987; and

WHEREAS, the APNEP was the first National Estuary Program to be designated under Section 320 of the Clean Water Act; and

WHEREAS, the APNEP has provided extensive information and supported scientific research about natural resource and environmental issues facing the Albemarle-Pamlico estuary since 1987; and

WHEREAS, scientific information from the Albemarle-Pamlico Estuarine Study was combined with extraordinary involvement by citizens to develop a Comprehensive Conservation and Management Plan (CCMP) entitled "A Guide to Environmental and Economic Stewardship in the Albemarle-Pamlico Region" that was adopted in 1994; and

WHEREAS, the CCMP also recognizes that, from an ecological and economic standpoint, the most effective means to ensure the environmental health and sustainability of the

Albemarle-Pamlico estuarine system is to manage and protect the resources in the five major river basins of the watershed; and

WHEREAS, the CCMP also recognizes the importance of involving the public in making decisions regarding natural resource and environmental management, and research;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment.

An **Albemarle-Pamlico National Estuary Program Office** is hereby established to coordinate and facilitate the implementation and advancement of the CCMP, the APNEP mission, and the activities of the Policy Board and Advisory Committees. The APNEP Program Office shall serve as a conduit for information between the Policy Board, Advisory Committees, state and federal agencies, local government, tribes, academia, and the public. The Program Office will be located in the Offices of the Secretary of the North Carolina Department of Environment and Natural Resources (DENR).

A **Policy Board** for the Albemarle-Pamlico watershed shall be established to work with DENR and the Program Office to advise, support, evaluate, update, advocate, and guide the implementation of the CCMP and the APNEP mission.

A Committee of Citizen Advisors ("**Citizen Advisory Committee**") for the Albemarle-Pamlico watershed shall be established to advise and support the Policy Board, and to serve as liaisons to local agencies and interested parties regarding environmental and natural resource management concerns and issues relevant to implementation of the CCMP and the APNEP mission.

A Committee of Science and Technical Advisors ("**Science and Technical Advisory Committee**") for the Albemarle-Pamlico watershed shall be established to advise the Policy Board and agencies responsible for implementation of the CCMP on scientific and technical issues.

A Committee of Management Agency Representatives ("**Management Advisory Committee**") for the Albemarle-Pamlico watershed shall be established to facilitate and support the implementation and advancement of the CCMP management actions and the APNEP mission.

Section 2. Program Boundaries.

The boundaries of the Albemarle-Pamlico National Estuary Program are the geographic area of each of the following river basins as defined by the hydrologic boundaries ascribed to it by the North Carolina Department of Environment and Natural Resources:

1. Neuse (including areas of the White Oak River Basin that drain to Core and Bogue sounds),
2. Tar-Pamlico (including areas draining directly into the northern Pamlico Sound),
3. Roanoke (that portion of the basin below Lake Gaston dam),
4. Chowan (including the portion of the basin located in Virginia), and
5. Pasquotank (including waters and areas that drain directly into the Albemarle, Currituck, Croatan, and Roanoke sounds, as well as that portion of the basin located in Virginia).

Section 3. Policy Board.

A. Membership.
   1. The Secretary of the Department of Environment and Natural Resources shall appoint or invite the initial Policy Board membership.
   2. The Policy Board will be broad-based and include the following:
      a. The Secretary of North Carolina Department of Environment and Natural Resources, or designee;
      b. The Secretary of Natural Resources of the Commonwealth of Virginia, or designee, is invited to participate;
      c. The Executive Director of the North Carolina Clean Water Management Trust Fund, or designee;
      d. One representative of Partnership for the Sounds;
      e. One representative of Cooperative Extension;
      f. One representative of Sea Grant;
      g. Two representatives from each of the Advisory Committees;
      h. One who shall, at the time of appointment, is actively connected with higher education.
      i. One who shall, at the time of appointment, is actively connected with local or regional planning;
      j. One who shall, at the time of appointment, is actively connected with major business or industry;
      k. One who shall, at the time of appointment, is actively connected with the commercial fishing or seafood industry;
      l. One who shall, at the time of appointment, is actively connected with agriculture;
      m. One who shall, at the time of appointment, is actively connected with forestry;
      n. One who shall, at the time of appointment, is actively associated with a local, state, or national conservation organization;
      o. One who shall, at the time of appointment, is actively connected with or have experience in finance/banking;
      p. One who shall, at the time of appointment, is actively connected with communication media;
      q. One at-large member; and

r. A representative of the United States Environmental Protection Agency–National Estuary Program is invited to participate as a non-voting ex-officio member.

3. Members must reside or have interests within the program boundaries.
4. Each member shall serve a three-year term, renewable once consecutively. The membership will have staggered appointments so that one-third of the membership can be reappointed each year.
5. Vacancies shall be filled by appointment or invitation from the remaining Board members as set forth in the Board's bylaws.
6. The Policy Board may expand its membership, as it deems necessary, upon two-thirds affirmative vote.

B. Duties.

1. The role of the Policy Board shall be to guide, evaluate, and support the CCMP implementation process and advancement of the CCMP and its management actions, and to ensure the highest level of collaboration, coordination, and cooperation among state and federal agencies, local governments, the public, and various interest groups.
2. The Policy Board shall consult the Advisory Committees for recommendations pertaining to implementation of CCMP management actions at the regional and local level, and the coordination and development of research and monitoring priorities.
3. The Policy Board shall advise the state, federal, and local agencies responsible for environmental and natural resource management about concerns and issues relevant to implementation of the CCMP.
4. The Policy Board shall make recommendations based on CCMP implementation progress and success, and shall identify and prioritize information needs as described in the CCMP.
5. The Policy Board shall evaluate the relevance of the CCMP and consult the Advisory Committees for recommendations on amending the CCMP to address new or emerging issues that may affect the significant natural resources of the Albemarle-Pamlico estuarine system.
6. The Policy Board shall be an advocate for the implementation of the CCMP and the APNEP mission and the APNEP.
7. The Policy Board, in cooperation with the Program Office, shall assist in the development of an annual report, budget, and work plan that address priorities for implementing and updating the CCMP.
8. The Policy Board will have no authority other than as an advisory body.
9. The Policy Board shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.

C. Meetings.

1. The Policy Board shall meet at least two times each year or more frequently if deemed appropriate by the Chair or upon request by the Program Director.

2. Federal, state, and local agencies with environmental management responsibilities in the Albemarle-Pamlico watershed are invited to participate in meetings of the Policy Board.
3. All meetings shall be open to the public and noticed in accordance with North Carolina's open meeting laws.

Section 4. Advisory Committees.

A. Citizen Advisory Committee
   1. Membership.
      a. Citizen Advisory Committee (CAC) members must reside, or have interests, within the program boundaries of the Albemarle-Pamlico National Estuary Program.
      b. Membership shall include:
         1. One representative of the Soil and Water Conservation Districts in North Carolina;
         2. One representative of the Soil and Water Conservation Districts in Virginia is invited;
         3. Two representatives from non-governmental environmental conservation organizations;
         4. One representative of environmental education;
         5. One representative of K-12 education;
         6. One representative from industry or business;
         7. One representative of agriculture;
         8. One representative of commercial fishing or the seafood industry;
         9. One representative of forestry;
         10. One representative of county government;
         11. One representative of municipal or town government;
         12. One representative from each of the following:
             a. North Carolina League of Municipalities, and
             b. North Carolina Association of County Commissioners;
         13. One representative from each of the following is invited:
             a. Virginia Municipal League, and
             b. Virginia Association of Counties;
         14. One representative is invited to represent the State recognized tribal organizations from within the program boundaries in North Carolina;
         15. One representative is invited to represent the State recognized tribal organizations from within the program boundaries in Virginia; and
         16. Six at-large positions.
      c. The CAC may expand its membership to include other interested parties as it deems necessary and as set forth in the committee's bylaws.
      d. Members shall serve a three-year term, renewable once consecutively. The membership will have staggered appointments so that one-third of the membership can be reappointed each year.

e. The Director of the Albemarle-Pamlico National Estuary Program Office shall nominate the initial CAC membership to be approved by the Policy Board. In making his nominations, the Director shall, to the greatest extent possible, seek to ensure geographic, demographic and social balance, and willingness to serve.

f. Vacancies shall be filled by appointment or invitation from the remaining CAC members as set forth in the committee's bylaws.

2. Duties.

a. The CAC shall be responsible for coordinating CCMP implementation strategies at a local level.

b. The CAC shall advise and consult with the Policy Board, Science and Technical Advisory Committee, Management Advisory Committee, the public, and various interest groups, as well as local agencies within the Albemarle-Pamlico watershed regarding implementation of CCMP management actions and advancement of the CCMP at the local level.

c. The CAC shall be an advocate for the implementation of the CCMP and the APNEP mission and the APNEP at the local level.

d. The CAC will have no authority other than as an advisory body.

e. The CAC shall select two members to serve on the Policy Board.

f. The CAC shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.

3. Meetings.

a. The CAC shall meet at least two times each year, or more frequently if deemed appropriate or upon request by the Policy Board or the Program Director.

b. Federal, state, and local agencies with environmental management responsibilities in the Albemarle-Pamlico watershed are invited to participate in meetings of the CAC.

c. All meetings shall be open to the public and noticed in accordance with North Carolina's open meeting laws.

B. Science and Technical Advisory Committee

1. Membership.

a. The Science and Technical Advisory Committee (STAC) will be broad-based and should include scientists and researchers from local colleges, universities, and research institutions, as well as technical staff from federal, state, and local agencies, industry, and environmental organizations.

b. All members will be expected to have an advanced degree (Master's or above) and/or extensive experience (at least 6 years), with expertise in scientific and technical fields germane to the mission of the APNEP.

c. The Director of the Albemarle-Pamlico National Estuary Program Office shall nominate the initial STAC membership to be approved by the Policy Board. In making his nominations, the Director shall, to the greatest extent possible, seek to ensure broad-based science and technical representation

for research, monitoring, and resource management issues germane to the Albemarle-Pamlico watershed.

d. Members should have expertise in science and technology relevant to environment and natural resource management, including but not limited to: landscape ecology, terrestrial ecology, wetlands ecology, submerged aquatic ecology, marine biology, hydrology, remote sensing, ecological assessment, engineering, agricultural technologies, forest technologies, soil conservation, water quality modeling, environmental policy, economics, public policy, planning, spatial statistics, and law.

e. Each member shall serve a three-year term, renewable once consecutively. The membership will have staggered appointments so that one-third of the membership can be reappointed each year.

f. Vacancies shall be filled by appointment or invitation from the remaining committee members as set forth in the committee's bylaws.

2. Duties.

a. The STAC shall be responsible for recommending research and monitoring activities and needs related to CCMP implementation or advancement to the Policy Board and the Program Office.

b. The STAC shall advise and consult with the Policy Board, the public, and various interest groups, as well as local, state, and federal governments within program boundaries on scientific and technical issues affecting implementation and advancement of the CCMP management actions. Members shall advise these groups of actions and information relevant to research and monitoring issues in the Albemarle-Pamlico watershed.

c. The STAC will have no authority other than as an advisory body.

d. The STAC will serve as a forum for the exchange of scientific information about the Albemarle-Pamlico estuarine system.

e. The STAC shall select two members to serve on the Policy Board.

f. The STAC shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.

3. Meetings.

a. The STAC shall meet at least two times each year, or more frequently if deemed appropriate or upon request by the Policy Board or the Program Director.

b. Federal, state, and local agencies with environmental management responsibilities in the Albemarle-Pamlico watershed are invited to participate in meetings of STAC.

c. All meetings shall be open to the public and noticed in accordance with North Carolina's open meeting laws.

C. Management Advisory Committee

1. Membership.

a. The Management Advisory Committee (MAC) will be broad-based and should include representation from federal, state, and local agencies with

environmental and natural resource management responsibilities within the Albemarle-Pamlico watershed.

b. The Director of the Albemarle-Pamlico National Estuary Program Office shall nominate the initial MAC membership to be approved by the Policy Board. In making appointments, the Policy Board shall, to the greatest extent possible, seek to ensure that appropriate management agencies are included.

c. The MAC may expand its membership as it deems necessary and as set forth in the committee's bylaws.

d. Vacancies shall be filled by appointment or invitation from the remaining committee as set forth in the committee's bylaws.

2. Duties.

a. The MAC shall be responsible for coordinating, supporting, and advocating CCMP implementation strategies at a state and federal agency level.

b. The MAC shall advise and consult with the Policy Board, CAC, and STAC on the implementation of CCMP management actions and advancement of the CCMP at the federal, state, and local agency level.

c. The MAC will have no authority other than as an advisory body.

d. The MAC shall select two members to serve on the Policy Board.

e. The MAC shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.

f. The MAC will serve as a forum for the exchange of management information about the Albemarle-Pamlico estuarine system.

3. Meetings.

a. The MAC shall meet at least two times each year, or more frequently if deemed appropriate or upon request by the Policy Board or Program Director.

b. All meetings shall be open to the public and noticed in accordance with North Carolina's open meeting laws.

Section 5. Compensation, Per Diems, and Expenses.

Members of the APNEP Policy Board and Advisory Committees shall serve voluntarily and without compensation or per diems. Extraordinary expenses may be reimbursed subject to approval by the Program Director.

Section 6. Effect of Other Executive Orders.

All other Executive Orders or portions of Executive Orders inconsistent herewith are hereby rescinded. This order specifically replaces Executive Order No. 74.

This Order shall become effective immediately and remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this second day of August in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO.123
EMERGENCY RELIEF FOR DAMAGE CAUSED BY DROUGHT

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to make, amend, or rescind the necessary orders, rules, and regulations within the limits of the authority conferred upon him, with due consideration of the policies of the federal government; and

WHEREAS, the North Carolina Emergency Management Act authorizes and empowers the Governor to deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law; and

WHEREAS, the North Carolina Emergency Management Act authorizes the Governor to take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary; and

WHEREAS, under the provisions of N.C.G.S. §§ 166A-4 and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing **HAY or WATER** to relieve our grief stricken counties must adhere to the registration requirements of N.C.G.S. § 20-86.1 and N.C.G.S. § 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. § 20-116 and N.C.G.S. § 20-18; I have further found that citizens in those counties will likely suffer losses and, therefore, invoke an imminent threat of widespread damage within the meaning of N.C.G.S. § 166-A-4(3), and

WHEREAS, I have requested the United States Department of Agriculture declare eighty-five (85) North Carolina counties as agricultural disaster areas due to drought conditions justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, there is a severe shortage of hay for feeding livestock;

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and with the concurrence of the Council of State, **IT IS ORDERED;**

Section 1. The North Carolina Department of Crime Control & Public Safety in conjunction with the N.C. Department of Transportation shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. § 20-116 and N.C.G.S. § 20-118 and certain registration requirements and penalties therefore arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, 105-449.49 for the vehicles transporting **HAY or WATER** along North Carolina roadways to our grief stricken counties.

Section 2. Notwithstanding the waivers set forth above, size and weight restrictions and penalties **have not been waived** under the following conditions:

(A) When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

(B) When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.

(C) When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 3. Vehicles referenced under Section 1 shall be exempt from the following registration requirements:

(A) The $50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.

(B) The registration requirements under N.C.G.S. § 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

(C) Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 4. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 5. The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) **does not apply** to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 6. The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner, which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 7. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts associated with the **DROUGHT**.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-eighth day of August in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.



Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

2028

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, SEPTEMBER 11, 2007

I, ELAINE F. MARSHALL, Secretary of State of North Carolina, hereby certify pursuant to G.S. 120-34 that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions and executive orders of the Governor on file in the office of the Secretary of State.



Secretary of State

THE JOINT CONFERENCE COMMITTEE REPORT ON THE CONTINUATION, EXPANSION AND CAPITAL BUDGETS

House Bill 1473

North Carolina General Assembly
2007 Session

July 27, 2007

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Budget Reform Statement
General Fund Availability

		FY 2007-2008	FY 2008-2009
1	Unappropriated Balance Remaining from Previous Year	0	270,504,098
2	Projected Reversions FY 2006-07	125,000,000	0
3	Projected Overcollections FY 2006-07	1,368,100,000	0
4	Less Earmarkings of Year End Fund Balance		0
5	Savings Reserve Account	(175,000,000)	0
6	Repairs and Renovations	(145,000,000)	0
7	**Beginning Unreserved Fund Balance**	**1,173,100,000**	**270,504,098**
8			
9	**Revenues Based on Existing Tax Structure**	**18,643,100,000**	**19,670,200,000**
10			
11	**Non-tax Revenues**		
12	Investment Income	212,000,000	222,200,000
13	Judicial Fees	172,500,000	176,600,000
14	Disproportionate Share	100,000,000	100,000,000
15	Insurance	60,200,000	62,800,000
16	Other Non-Tax Revenues	139,300,000	153,400,000
17	Highway Trust Fund/Use Tax Reimbursement Transfer	172,500,000	172,500,000
18	Highway Fund Transfer	18,190,000	17,610,000
19	**Subtotal Non-tax Revenues**	**874,690,000**	**905,110,000**
20			
21	**Total General Fund Availability**	**20,690,890,000**	**20,845,814,098**
22			
23	**Adjustments to Availability: 2007 Session**		
24	Maintain State Sales & Use Tax Rate at 4.25%	258,400,000	285,900,000
25	State Takeback of Local Sales Tax	0	184,200,000
26	State Hold Harmless for Counties	(19,300,000)	(3,700,000)
27	Corporate Tax Earmarking Adjustments	44,700,000	0
28	Earned Income Tax Credit	0	(48,300,000)
29	IRC Conformity	(56,900,000)	(49,100,000)
30	Health & Human Services/Health Service Regulation Fees	1,705,501	1,642,407
31	Secretary of State Corporate Annual Report Fees	563,016	563,016
32	Long-term Care Insurance Tax Credit	(7,000,000)	(7,200,000)
33	Adoption Tax Credit	(3,000,000)	(3,000,000)
34	Enhance 529 Plan Deduction (House Bill 1016)	(200,000)	(200,000)
35	Privilege Tax on Software Publishers	(2,800,000)	(4,000,000)
36	Research & Development Credit Enhancement	(400,000)	(800,000)
37	Modify Tax on Property Coverage Contracts	(1,500,000)	(3,100,000)
38	Reserve for Manufacturers' and Farmers Energy Tax Provisions	(10,000,000)	(20,000,000)
39	Non-profit Energy Tax Credit	(500,000)	(500,000)
40	Credit for Constructing Renewable Fuels Facilities	0	(2,300,000)
41	Reserve for Work Opportunity Tax Credit	(3,000,000)	(3,000,000)
42	Sales Tax Refund for Aircraft Part Mfgrs.	(800,000)	(800,000)
43	Sales Tax Refund - Research Supplies	0	(2,600,000)
44	Adjust Sales Tax Holiday	0	(600,000)
45	Sales Tax Exemption for Bakery Thrift Store	(100,000)	(100,000)
46	Railroad Incentives	(200,000)	(300,000)
47	Firefighter/EMS Income Tax Deduction	(1,000,000)	(1,000,000)
48	Adjust Transfer from Insurance Regulatory Fund	80,274	56,274
49	Adjust Transfer from Treasurer's Office	110,758	98,758
50	Transfer from Closed Capital Account	3,506,143	0
51	Judical Fees	35,586,118	38,821,220
52	**Subtotal Adjustments to Availability: 2007 Session**	**237,951,810**	**360,681,675**
53			
54	**Revised General Fund Availability**	**20,928,841,810**	**21,206,495,773**
55			
56	**Less: General Fund Appropriations**	**20,658,337,712**	**20,685,666,538**
57			
58	**Unappropriated Balance Remaining**	**270,504,098**	**520,829,235**

SUMMARY:

GENERAL FUND APPROPRIATIONS

2034

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Education:						
Community Colleges	892,934,482	6,491,128	38,680,550	45,171,678	4.00	938,106,160
Public Education	7,466,321,736	118,741,752	129,366,081	248,107,833	8.00	7,714,429,569
University System	2,525,065,071	62,304,105	38,901,841	101,205,946	31.50	2,626,271,017
Total Education	**10,884,321,289**	**187,536,985**	**206,948,472**	**394,485,457**	**43.50**	**11,278,806,746**
Health and Human Services:						
Office of the Secretary	61,815,967	(617,654)	9,684,700	9,067,046	13.00	70,883,013
Aging Division	34,643,589	836,000	464,000	1,300,000		35,943,589
Blind and Deaf / Hard of Hearing Services	10,277,646	934,894	75,000	1,009,894	7.00	11,287,540
Child Development	296,288,148	10,455,870	0	10,455,870		306,744,018
Education Services	38,655,272	290,247	(151,255)	138,992	7.00	38,794,264
Health Service Regulation	17,903,044	1,942,072	303,368	2,245,440	33.00	20,148,484
Medical Assistance	2,877,566,705	32,792,567	10,000,000	42,792,567	14.00	2,920,359,272
Mental Health	711,971,291	4,174,253	(3,063,723)	1,110,530	33.00	713,081,821
NC Health Choice	51,883,163	7,507,992	0	7,507,992		59,391,155
Public Health	174,643,740	2,407,024	15,445,178	17,852,202	7.00	192,495,942
Social Services	212,060,881	3,588,753	1,267,868	4,856,621	6.00	216,917,502
Vocational Rehabilitation	44,374,525	805,956	(125,684)	680,272	3.00	45,054,797
Total Health and Human Services	**4,532,083,971**	**65,117,974**	**33,899,452**	**99,017,426**	**123.00**	**4,631,101,397**
Justice and Public Safety:						
Correction	1,214,815,488	(9,392,687)	8,642,844	(749,843)	16.00	1,214,065,645
Crime Control & Public Safety	39,283,058	2,452,423	9,765,856	12,218,279	21.00	51,501,337
Judicial Department	407,836,051	21,360,774	3,551,040	24,911,814	386.75	432,747,865
Judicial - Indigent Defense	101,886,218	4,279,033	375,000	4,654,033		106,540,251
Justice	94,586,393	431,122	(156,316)	274,806	28.00	94,861,199
Juvenile Justice & Delinquency Prevention	159,464,742	(22,962,069)	21,499,396	(1,462,673)	-98.48	158,002,069
Total Justice and Public Safety	**2,017,871,950**	**(3,831,404)**	**43,677,820**	**39,846,416**	**353.27**	**2,057,718,366**

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Natural And Economic Resources:						
Agriculture and Consumer Services	60,254,939	264,822	13,861,940	14,126,762	-1.00	74,381,701
Commerce	41,365,875	(1,116,931)	23,050,211	21,933,280	3.00	63,299,155
Commerce - State Aid	12,268,085	9,432,150	13,645,000	23,077,150		35,345,235
Environment and Natural Resources	189,617,004	1,229,627	14,307,531	15,537,158	-2.00	205,154,162
DENR - Clean Water Mgmt. Trust Fund	100,000,000	0	0	0		100,000,000
Labor	16,209,473	385,285	0	385,285	3.00	16,594,758
NC Biotechnology Center	12,583,395	3,000,000	0	3,000,000		15,583,395
Rural Economic Development Center	24,302,607	0	119,500,000	119,500,000		143,802,607
Total Natural and Economic Resources	**456,601,378**	**13,194,953**	**184,364,682**	**197,559,635**	**3.00**	**654,161,013**
General Government:						
Administration	65,923,562	3,350,567	5,167,600	8,518,167	12.00	74,441,729
Auditor	12,722,540	10,486	120,000	130,486		12,853,026
Cultural Resources	68,672,441	2,319,741	3,378,600	5,698,341	8.00	74,370,782
Cultural Resources - Roanoke Island	2,020,023	0	0	0		2,020,023
General Assembly	55,729,083	(1,190,418)	0	(1,190,418)		54,538,665
Governor	6,462,319	(200,000)	0	(200,000)		6,262,319
Housing Finance Agency	4,750,945	4,857,472	9,000,000	13,857,472	2.00	18,608,417
Insurance	30,841,859	56,274	24,000	80,274	4.00	30,922,133
Insurance - Worker's Compensation Fund	4,500,000	0	0	0		4,500,000
Lieutenant Governor	931,294	(17,172)	0	(17,172)	0.10	914,122
Office of Administrative Hearings	3,495,009	19,349	177,100	196,449		3,691,458
Revenue	87,619,246	(3,669,667)	0	(3,669,667)	-47.00	83,949,579
Secretary of State	10,600,417	56,958	819,615	876,573	1.00	11,476,990
State Board of Elections	5,861,461	81,922	245,089	327,011	3.00	6,188,472
State Budget and Management	5,930,060	(59,325)	0	(59,325)	-1.00	5,870,735
State Budget and Management -- Special	4,938,446	683,000	1,350,000	2,033,000		6,971,446
State Controller	20,646,483	57,708	6,000	63,708	2.00	20,710,191
Treasurer - Operations	9,218,372	98,758	12,000	110,758	3.00	9,329,130
Treasurer - Retirement / Benefits	9,165,457	293,500	0	293,500		9,458,957
Total General Government	**410,029,017**	**6,749,153**	**20,300,004**	**27,049,157**	**-12.90**	**437,078,174**

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Transportation	**0**	**0**	**0**	**0**	**0.00**	**0**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	619,793,004	(11,233,632)	0	(11,233,632)		608,559,372
Federal Reimbursement	1,616,380	0	0	0		1,616,380
Subtotal Debt Service	**621,409,384**	**(11,233,632)**	**0**	**(11,233,632)**		**610,175,752**
Statewide Reserves:						
Compensation Increases		488,655,673	1,668,519	490,324,192		490,324,192
Additional Salary Increase for Teacher Assistants		1,150,240	0	1,150,240		1,150,240
Add Additional Step to Teacher Schedule		9,862,065	0	9,862,065		9,862,065
Additional Step to Judicial Longevity		566,643	0	566,643		566,643
Transfer Public Defenders to Judicial Retirement		573,000	0	573,000		573,000
Salary Adjustment Fund: 2007-09 Biennium	23,688,000	0	0	0		23,688,000
Teachers' and State Employees' Retirement Contribution		35,705,000	0	35,705,000		35,705,000
Retirement System Payback		0	45,000,000	45,000,000		45,000,000
State Health Plan		110,184,490	0	110,184,490		110,184,490
Reserve for Eliminated Positions		(10,038,466)	0	(10,038,466)		(10,038,466)
Contingency and Emergency Fund	5,000,000	0	0	0		5,000,000
Information Technology Fund	4,140,000	0	5,000,000	5,000,000		9,140,000
BEACON HR/Payroll		0	20,000,000	20,000,000		20,000,000
Integrated Tax Administration System Replacement		0	5,000,000	5,000,000		5,000,000
Job Development Investment Grants (JDIG)	12,400,000	0	0	0		12,400,000
Subtotal Statewide Reserves	**45,228,000**	**636,658,645**	**76,668,519**	**713,327,164**		**758,555,164**
Total Reserves and Debt Service	**666,637,384**	**625,425,013**	**76,668,519**	**702,093,532**		**1,368,730,916**

Summary of General Fund Appropriations Fiscal Year 2007-2008 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2007-08	Adjustments	Adjustments	Changes	Changes	2007-08
Total General Fund for Operations	**18,967,544,989**	**894,192,674**	**565,858,949**	**1,460,051,623**	**509.87**	**20,427,596,612**
Capital Improvements						
Water Resources Development Projects	0	0	20,000,000	20,000,000		20,000,000
Other Capital Improvements	0	0	210,741,100	210,741,100		210,741,100
Total Capital Improvements	**0**	**0**	**230,741,100**	**230,741,100**		**230,741,100**
Total General Fund Budget	**18,967,544,989**	**894,192,674**	**796,600,049**	**1,690,792,723**	**509.87**	**20,658,337,712**

Summary of General Fund Appropriations						
Fiscal Year 2008-2009						
2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Education:						
Community Colleges	893,151,875	6,491,128	0	6,491,128	4.00	899,643,003
Public Education	7,579,725,190	126,560,095	2,030,000	128,590,095	8.00	7,708,315,285
University System	2,578,824,109	76,406,791	1,216,199	77,622,990	25.50	2,656,447,099
Total Education	**11,051,701,174**	**209,458,014**	**3,246,199**	**212,704,213**	**37.50**	**11,264,405,387**
Health and Human Services:						
Office of the Secretary	64,468,327	(1,876,149)	0	(1,876,149)	8.00	62,592,178
Aging Division	34,645,179	836,000	264,000	1,100,000		35,745,179
Blind and Deaf / Hard of Hearing Services	10,321,452	1,113,191	0	1,113,191	7.00	11,434,643
Child Development	296,303,468	14,680,739	0	14,680,739		310,984,207
Education Services	38,518,759	336,698	0	336,698	7.00	38,855,457
Health Service Regulation	17,919,184	2,234,294	502,750	2,737,044	33.00	20,656,228
Medical Assistance	3,158,802,006	221,191,464	10,000,000	231,191,464	14.00	3,389,993,470
Mental Health	713,269,114	8,370,609	0	8,370,609	-9.79	721,639,723
NC Health Choice	51,883,163	7,507,992	0	7,507,992		59,391,155
Public Health	174,331,447	3,694,624	4,136,639	7,831,263	7.00	182,162,710
Social Services	215,228,584	5,998,454	0	5,998,454	6.00	221,227,038
Vocational Rehabilitation	44,712,409	805,956	0	805,956	3.00	45,518,365
Total Health and Human Services	**4,820,403,092**	**264,893,872**	**14,903,389**	**279,797,261**	**75.21**	**5,100,200,353**
Justice and Public Safety:						
Correction	1,235,981,287	(9,353,706)	0	(9,353,706)	16.00	1,226,627,581
Crime Control & Public Safety	39,307,071	2,181,966	0	2,181,966	16.00	41,489,037
Judicial Department	413,500,354	38,073,921	815,642	38,889,563	653.75	452,389,917
Judicial - Indigent Defense	105,772,513	10,218,835	0	10,218,835		115,991,348
Justice	91,003,762	1,167,908	0	1,167,908	28.00	92,171,670
Juvenile Justice & Delinquency Prevention	163,791,473	(21,312,405)	(2,922,964)	(24,235,369)	-125.00	139,556,104
Total Justice and Public Safety	**2,049,356,460**	**20,976,519**	**(2,107,322)**	**18,869,197**	**588.75**	**2,068,225,657**

Summary of General Fund Appropriations Fiscal Year 2008-2009 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Natural And Economic Resources:						
Agriculture and Consumer Services	60,434,179	264,822	0	264,822	-1.00	60,699,001
Commerce	41,406,272	(1,116,931)	0	(1,116,931)	3.00	40,289,341
Commerce - State Aid	12,268,085	2,657,150	6,436,250	9,093,400		21,361,485
Environment and Natural Resources	191,595,711	1,219,952	0	1,219,952	-2.00	192,815,663
DENR - Clean Water Mgmt. Trust Fund	100,000,000	0	0	0		100,000,000
Labor	16,209,666	385,285	0	385,285	3.00	16,594,951
NC Biotechnology Center	12,583,395	3,000,000	0	3,000,000		15,583,395
Rural Economic Development Center	24,302,607	0	0	0		24,302,607
Total Natural and Economic Resources	**458,799,915**	**6,410,278**	**6,436,250**	**12,846,528**	**3.00**	**471,646,443**
General Government:						
Administration	66,457,866	4,668,951	0	4,668,951	12.00	71,126,817
Auditor	12,735,993	10,486	0	10,486		12,746,479
Cultural Resources	69,561,683	2,319,741	0	2,319,741	8.00	71,881,424
Cultural Resources - Roanoke Island	2,020,023	0	0	0		2,020,023
General Assembly	56,931,204	(1,190,418)	0	(1,190,418)		55,740,786
Governor	6,500,587	(200,000)	0	(200,000)		6,300,587
Housing Finance Agency	4,750,945	4,857,472	0	4,857,472	2.00	9,608,417
Insurance	30,880,430	56,274	0	56,274	4.00	30,936,704
Insurance - Worker's Compensation Fund	4,500,000	0	0	0		4,500,000
Lieutenant Governor	932,281	(17,172)	0	(17,172)	0.10	915,109
Office of Administrative Hearings	3,502,386	19,349	0	19,349		3,521,735
Revenue	87,711,626	(2,548,298)	0	(2,548,298)	-47.00	85,163,328
Secretary of State	10,686,083	56,958	0	56,958	1.00	10,743,041
State Board of Elections	5,874,026	84,172	88,670	172,842	3.00	6,046,868
State Budget and Management	5,936,765	(59,325)	0	(59,325)	-1.00	5,877,440
State Budget and Management -- Special	4,938,446	683,000	0	683,000		5,621,446
State Controller	20,669,990	57,708	0	57,708	2.00	20,727,698
Treasurer - Operations	9,227,432	98,758	0	98,758	3.00	9,326,190
Treasurer - Retirement / Benefits	9,165,457	293,500	0	293,500		9,458,957
Total General Government	**412,983,223**	**9,191,156**	**88,670**	**9,279,826**	**-12.90**	**422,263,049**

Summary of General Fund Appropriations Fiscal Year 2008-2009 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Transportation	**0**	**0**	**0**	**0**	**0.00**	**0**
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	653,799,484	5,217,423	0	5,217,423		659,016,907
Federal Reimbursement	1,616,380	0	0	0		1,616,380
Subtotal Debt Service	**655,415,864**	**5,217,423**	**0**	**5,217,423**	**0.00**	**660,633,287**
Statewide Reserves:						
Compensation Increases		488,655,673	0	488,655,673		488,655,673
Additional Salary Increase for Teacher Assistants		1,150,240	0	1,150,240		1,150,240
Add Additional Step to Teacher Schedule		9,862,065	0	9,862,065		9,862,065
Additional Step to Judicial Longevity		566,643	0	566,643		566,643
Transfer Public Defenders to Judicial Retirement		573,000	0	573,000		573,000
Salary Adjustment Fund: 2007-09 Biennium	23,688,000	0	0	0		23,688,000
Teachers' and State Employees' Retirement Contribution		35,705,000	0	35,705,000		35,705,000
Retirement System Payback		0	0	0		0
State Health Plan		122,890,207	0	122,890,207		122,890,207
Reserve for Eliminated Positions		(10,038,466)	0	(10,038,466)		(10,038,466)
Contingency and Emergency Fund	5,000,000	0	0	0		5,000,000
Information Technology Fund	2,840,000	0	5,000,000	5,000,000		7,840,000
BEACON HR/Payroll		0	0	0		0
Integrated Tax Administration System Replacement		0	0	0		0
Job Development Investment Grants (JDIG)	12,400,000	0	0	0		12,400,000
Subtotal Statewide Reserves	**43,928,000**	**649,364,362**	**5,000,000**	**654,364,362**		**698,292,362**
Total Reserves and Debt Service	**699,343,864**	**654,581,785**	**5,000,000**	**659,581,785**		**1,358,925,649**
Total General Fund for Operations	**19,492,587,728**	**1,165,511,624**	**27,567,186**	**1,193,078,810**		**20,685,666,538**

Summary of General Fund Appropriations Fiscal Year 2008-2009 2007 Legislative Session						
	Adjusted	Legislative Adjustments				Revised
	Continuation Budget	Recurring	Nonrecurring	Net	FTE	Appropriation
	2008-09	Adjustments	Adjustments	Changes	Changes	2008-09
Capital Improvements						
Water Resources Development Projects	0	0	0	0		0
Other Capital Improvements	0	0	0	0		0
Total Capital Improvements	**0**	**0**	**0**	**0**		**0**
Total General Fund Budget	**19,492,587,728**	**1,165,511,624**	**27,567,186**	**1,193,078,810**	**691.56**	**20,685,666,538**

EDUCATION
Section F

Public Education

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$7,466,321,736**		**$7,579,725,190**	
Legislative Changes				
A. Reductions to Continuation Budget				
1 **Partnership for Excellence** Eliminates pass-through appropriation to Partnership for Excellence (formerly "Total Quality Education"), a private non-profit provider of professional development services. Local Education Agencies (LEAs) may use State funds to contract for these services.	($37,500)	R	($37,500)	R
2 **Replacement School Buses** Reduces the number of buses replaced in 2007-08 by approximately 170. The remaining $53.9 million budgeted in 2007-08 for this purpose will support replacement of 658 buses.	($4,500,000)	NR		
3 **High Priority Elementary Schools** Eliminates special supplementary funding for the two remaining (of thirty-seven original) High Priority elementary schools identified per section 29.1 of S.L. 2001-424. Funding will be reprogrammed to support ongoing State initiatives to address low-performing schools. The State Board may use funds from the ADM Contingency Reserve to assist the remaining two schools should they decide to continue operating as High Priority elementary schools.	($520,067)	R	($520,067)	R
4 **Teacher Assistants** Reduces State allotment for teacher assistants.	($5,459,534)	R	($5,459,534)	R
B. Expansion - Technical Adjustments				
5 **Teaching Fellows** Provides funding required to annualize cost of the 100 additional scholarships funded 2 years ago.	$650,000	R	$1,300,000	R
6 **Principals for STEM Schools** Provides funding to annualize principal positions at each of the 10 restructured Science, Technology, Engineering, & Math (STEM) high schools given planning grants and 4 months of principal salary in 2006-07 to support preparations for implementation in 2007-08. Annualized principal positions not included in Governor's expansion budget (remainder of operational funding must come from non-State sources, per language in 2006-07 budget).	$812,500	R	$812,500	R

	FY 07-08		FY 08-09	
7 **Restructured High Schools** Provides funding to support implementation of 7 restructured high schools given planning grants in 2006-07.	$1,367,254	R	$1,367,254	R
8 **Education Value Added Assessment System (EVAAS)** Provides funding to support EVAAS licenses for LEAs funded out of the $845,000, including carryforward, available for expenditure in 2006-07. Consistent with General Assembly's direction to fund as many LEAs as possible within funds available, this additional funding maintains the number of LEAs currently funded.	$345,000	R	$345,000	R
C. Expansion - State Public School Fund				
9 **ABC Bonuses** Funds ABC bonuses for schools that met or exceeded expected growth in the 2006-07 school year.	$70,000,000	NR		
10 **Class Size Reduction** Provides funding for K-3 teachers to maintain K-3 student/teacher ratios at 18:1.	$37,500,000	NR		
11 **Disadvantaged Student Supplemental Funding (DSSF)** Expands DSSF allotment for all LEAs to increase each LEA's capacity to meet the needs of all of its students.	$17,563,000	R	$17,563,000	R
12 **Learn & Earn** Twelve schools were provided planning grants in FY 2006-07 to become Learn & Earn high schools, however only nine schools have indicated that they will be operational in FY 2007-08. As such, this item provides funding for implementation at nine additional Learn & Earn high schools in FY 2007-08, and an additional three Learn & Earn high schools in FY 2008-09. Provides $10,000 in non-recurring funds per site to support start-up costs associated with first year of implementation. The additional non-recurring money in 2007-08 will provide planning grants for 15 additional high schools.	$2,445,011 $700,000	R NR	$3,260,015 $30,000	R NR
13 **Learn & Earn Online** Provides funding to support the delivery of online college credit courses that will be made available to high school students. The non-recurring funds are appropriated to a reserve, and will not revert if they are unused in 2007-08.	$6,500,000 $5,000,000	R NR	$10,100,000	R
14 **School Connectivity** Provides funding to support partial implementation of a new plan for State-funded and supported IT infrastructure in the LEAs. Part of effort to increase schools' abilities to use up-to-date instructional technology.	$12,000,000	R	$12,000,000	R
15 **Instructional Supplies/Materials** Provides additional funds to LEAs for purchase of instructional supplies and materials. Increases funding factor by $1.94 (4% per ADM) bringing factor to $50.44 per ADM.	$2,833,994	R	$2,833,994	R

	FY 07-08		FY 08-09	
16 **Academically & Intellectually Gifted** Increases funds allotted to LEAs to support programming for students identified as academically and intellectually gifted. Increases funding factor by $29.93 per ADM (for 4% of ADM), bringing factor to $1,042.53 per student.	$1,750,000	R	$1,750,000	R
17 **Children with Disabilities** Increases funds allotted to LEAs to support special education and related services for students with identified disabilities. Increases funding factor by $42.01 student in funded headcount (171,617), bringing factor to $3,199.57 per student.	$5,000,000	R	$5,000,000	R
18 **Small County Supplemental Funding** Provides additional $1,315,297 to be distributed evenly between each of the 27 LEAs projected to receive funding through this allotment in FY 2007-08 and FY 2008-09 ($48,715 per LEA). Provides an additional $784,703 to county LEAs that have less than 1,300 ADM and have experienced a decline in ADM since FY 2001-02. This additional money is to be used to reduce the student-to-teacher ratio in grades K-5 by 1, in grades 6-8 by 2, and in grades 9-12 by 3.	$2,100,000	R	$2,100,000	R
19 **Literacy Coaches** Provides funds to support 100 school-based literacy coaches to be placed in 100 schools that contain an eighth grade. Coaches will provide research-based teaching practices and job-embedded professional development to assist teachers in the development of specialized curricula.	$5,704,400	R	$5,704,400	R
20 **Regional Military Family Counselors** Funds four additional counselor positions – one each for the LEAs in Cumberland, Craven, Wayne, and Onslow counties – to provide assistance to families in those counties with issues related to deployment and family relocation. Pursuant to interlocal agreements between local school administrative units, the counselors shall serve families in similar circumstances who reside in adjoining counties.	$240,000	R	$240,000	R
21 **Critical Foreign Language Pilots** Provides funding to support development and piloting of online and traditional high school courses in Chinese, Farsi, or other critical foreign languages; development of licensure standards for critical foreign languages; a lateral entry program for heritage speakers; and grants to LEAs to use as incentives for hiring critical foreign language teachers. Funding will support the creation of two critical foreign language courses in 07-08, and two additional critical foreign language courses in 08-09.	$500,000	R	$500,000	R
22 **Dropout Prevention Grants** Establishes new grant program that will distribute funding on a competitive basis to support innovative LEA programs that address dropout prevention.	$7,000,000	NR		

	FY 07-08		FY 08-09	
23 **Focused Education Reform Pilot Program** Funds the first two years of a three-year education reform pilot program in five LEAs to be administered by the Public School Forum of North Carolina, in conjunction with the North Carolina Science, Mathematics and Technology Education Center. Participating LEAs will be selected based on hard-to-staff criteria, geographic diversity, continuing low performance, and high-risk student population. The pilot program will incorporate targeted professional development, after-school programming, teacher recruitment and retention bonuses, principal achievement bonuses, teacher mentoring, and science and math instructional assistance. Where necessary, pilot LEAs will receive funding to support EVAAS licensure. In each FY, $2,342,705 will be allocated to the Public School Forum of North Carolina for the creation of after-school programs, the creation of a leadership development program for school administrators, food/lodging costs for campus-based summer training, provision of staff/consultants, and administration/coordination of the pilot program. All remaining funds will be distributed through DPI as directed by the parameters of the pilot.	$4,423,094	R	$7,176,433	R
24 **School Technology Pilot** Provides funds to be used along with a grant from the Golden LEAF Foundation and private sector funds to establish 8 pilot high schools that will incorporate technology in the classroom by providing computers for all teachers and students in the pilot schools. Non-State funds will be used to purchase student and teacher portable computers. State funds will be used to fund a program evaluation, improve network connectivity at each of the pilot sites, assist with professional development for teachers and principals, provide technical support staff, and purchase any additional software, hardware, or other equipment necessary to support the program. Any unused funds at the end of the 2007-08 fiscal year will not revert.	$3,000,000	NR		
25 **Low Wealth Counties Supplemental Funding** Provides one-time funding to LEAs that experienced decreases in Low Wealth Counties Supplemental Funding in 2007-08. This money will restore 75% of each LEA's decrease in Low Wealth Counties Supplemental Funding.	$5,445,081	NR		
26 **More at Four** This appropriation expands the More at Four program by 10,000 slots in 2007-08 and increases the per slot amount by $400. This will result in 28,653 total available More at Four slots at a per slot amount of $4,450. This appropriation will also support operating costs, and start-up costs associated with new slots.	$56,000,000	R	$56,000,000	R

	FY 07-08		FY 08-09	
D. Expansion - Department of Public Instruction				
27 **DPI Consolidated Assistance Program** Provides funding to support effort to budget assistance program components rather than funding them each year out of reversions. DPI shall budget all components of the Consolidated Assistance Program beginning in FY 2008-09.	$150,000	R	$150,000	R
28 **DPI Legacy Computer System Upgrades** Provides funding to complete technical upgrades required by ITS's review of DPI computing systems (per SB 991). These non-recurring appropriations support the 2nd and 3rd phases of a 3-year phased implementation ($2 million per year; total of $6 million, including NR funds in 2006-07).	$2,000,000	NR	$2,000,000	NR
29 **DPI Testing Positions** Funds 3 new positions in the DPI Accountability Services Division.	$234,600 3.00	R	$234,600 3.00	R
30 **DPI Positive Behavior Support Coordinator** Provides funding to support a State-level coordinator of the Positive Behavior Support Initiative, an effort to improve the learning environment for all students by establishing and reinforcing clear behavioral expectations throughout the school building and school day.	$90,000 1.00	R	$90,000 1.00	R
31 **Financial Literacy Curriculum** Provides funding to support training of certain civics and economics teachers in financial literacy in 2007-08. It is the intent of the General Assembly that financial literacy modules be established within the core high school civics and economics curriculum in 2008-09.	$500,000	R	$500,000	R
32 **Centralization of Professional Development** Establishes the Office of Professional Development under the State Board of Education. The Office will catalogue current professional development opportunities, develop a user rating system for professional development programs, examine new professional development opportunities, and ensure that all LEAs are aware of available professional development opportunities. Additionally, the office will develop standards for evaluating professional development providers, provide technical advice to LEAs in order to ensure that professional development expenditures align with local needs, and study the effectiveness of professional development funding.	$550,000 4.00	R	$550,000 4.00	R
33 **State Board of Education Operating Support** Provides additional funds to support operations of the State Board of Education.	$100,000	NR		

	FY 07-08	FY 08-09
34 **Education Value Added Assessment System (EVAAS) / Teacher Evaluation Module**		
Provides $355,000 to support EVAAS licenses for all LEAs that have never had EVAAS licenses. The remaining $750,000 will be used to purchase EVAAS Teacher Analysis to be used in conjunction with EVAAS.	$1,105,000	NR

35 **Receipt-Supported Positions**

Creates the following permanent receipt supported positions in the Department of Public Instruction:

A. Comprehensive Exceptional Children Accountability System (CECAS) – Federal IDEA VI-B Handicapped Funds

4 Training Consultants - $318,462
1 Training Coordinator - $89,947
1 Quality Analyst - $99,130
1 Office Assistant - $40,155

Positions will maintain and support LEA usage of CECAS, the management system for personal education plans and identification of children with disabilities. Converts contracted position to permanent State positions.

B. Safe Schools – Federal 21st Century Community Learning Centers

Education Consultant - $75,024

Consultant will provide technical assistance to schools and LEAs on middle and high school counseling issues, and provide technical assistance and monitor the 190 centers providing after-school programs to at-risk students. Converts a contract position to a permanent State position.

C. Child Nutrition – Federal Child Nutrition Funds

2 School Meals Program Consultants - $152,444

Consultants will assist local education agencies in ensuring that all compliance requirements for federal child nutrition programs are met and that the State's nutritional standards are implemented. Consultants will coordinate the implementation and oversight of the US Department of Agriculture's Seamless Summer Food Service program, Summer Milk program, Fruit and Vegetable program, USDA Best Practice program, and the Healthier US program.

D. DPI Communications and Information – Receipts from Use of Services

2 IT Technical Support Analysts - $95,431
1 Operations & Systems Technician - $38,291

Analyst positions will assist DPI with website maintenance and development. Technician will finish jobs in the department's printing and duplicating centers. Converts contracted positions to permanent State positions.

E. Children with Special Needs – Federal IDEA VI-B Handicapped Funds

3 Education Program Administrators - $257,943

One administrator will be responsible for charter school monitoring, one for local education agency (LEA) program monitoring, and one will be assigned for dispute resolution. Converts contracted positions to permanent State positions.

F. Financial and Business Services – Indirect Cost Funds

Social Research Assistant - $41,735

Research assistant will help design the research intern program being established in the Financial and Business Services Area by coordinating hiring of graduate student interns and monitoring research projects.

G. Reading First – Federal Reading First Funds

Education Consultant - $94,830

Consultant will oversee roll-out of NC Reads training to all K-3 schools that do not receive Reading First grants and support incoming calls relating to participation in and implementation of NC READS I and II.

H. Technology Services – ½ Lottery funds, ½ Federal Title I Funds

Business & Technology Applications Specialist - $107,165

Specialist will serve as a technical documenter and will facilitate the modification/maintenance of systems that support More at Four and Title I programs. Converts contracted position to permanent State position.

I. Human Resource Management – Federal Troops to Teachers and Licensure Receipts

1 Administrative Officer - $61,662
1 Education Licensure Specialist - $49,770

The administrative officer coordinates the federal program that facilitates the transition of qualified military personnel into the teaching profession. The licensure specialist works with prospective and current teachers in maintaining/securing their license to teach in North Carolina. Administrative officer will be a permanent State position, converted from a contracted position.

J. Curriculum and Instructional Services – Federal Title I Funds

Chief Consultant - $92,242

Consultant will manage the program operation of the Department's largest federal grant (over $300 million).

K. Attorney General's Office – Worker's Compensation

Receipts

Attorney III - $102,881

Attorney will be placed in the Tort Claims Section of the Department of Justice and will manage claims associated with the DPI's workers' compensation cases.

E. Expansion - Pass-Throughs

36 **Communities in Schools**	$500,000	R	$500,000	R
Provides additional funds to private non-profit organization that assists with the establishment and development of local student support programs designed to prevent academic failure and dropout. The funding shall be granted to local programs as "seed money" for both new and established programs. In addition, the General Assembly recommends that CIS use up to $300,000 from its cash reserves for additional grants to local programs.	$550,000	NR		
37 **Teacher Academy**	$2,000,000	R	$2,000,000	R
Provides funds to the Teacher Academy to provide specialized training of literacy coaches. Funds shall be used to provide both ongoing training to coaches employed in FY 2006-07 and initial training to coaches employed for the first time in FY 2007-08.				
38 **Teach for America**				
Provides additional pass-through funds to support this private non-profit organization's efforts to recruit teachers to hard to staff schools in North Carolina.	$200,000	NR		
39 **Science Competitions**	$200,000	R	$200,000	R
Provides $100,000 in additional funding for Science Olympiad. Also provides $100,000 to the North Carolina Science, Mathematics and Technology Education Center, Inc. to support the establishment of new interscholastic science competitions.				
40 **Kids Voting**				
Provides funding to support continued operation of the Kids Voting program, which received a non-recurring appropriation of the same amount in FY 2006-07. $50,000 will be used to implement new Kids Voting programs in nonparticipating counties across the State. $200,000 will be divided on the basis of the North Carolina Department of Public Instruction's Average Daily Membership with a minimum of $2,500 for the following counties: Alleghany, Buncombe, Cabarrus, Catawba, Clay, Cumberland, Davie, Durham, Greene, Guilford, Haywood, Henderson, Iredell, Jackson, Lee, Madison, Mecklenburg, New Hanover, Onslow, Randolph, and Wake to assist those counties with their Kids Voting programs.	$250,000	NR		
41 **Ag in the Classroom**				
Provides funding to support the delivery of the Ag in the Classroom program.	$50,000	NR		

	FY 07-08		FY 08-09	
42 **Schools Attuned** Provides additional recurring funds to private non-profit organization that delivers professional development training to North Carolina public school educators for recognizing, understanding, and managing students with differences in learning.	$300,000	R	$300,000	R
43 **Teacher Cadet Program** Provides funding to the Teacher Cadet Program, part of the NC Foundation of Public School Children, to support operation of private non-profit organization that encourages high achieving students to consider teaching as a career.	$278,500	NR		
44 **Project Enlightenment** Provides funds to non-profit program to administer the NC Literacy Connection Program. The program will develop a statewide network of preschool early literacy leaders, and provide them with research-based training and support for coaching preschool teachers on literacy instruction strategies. In addition, the program will provide training and technical support to the More at Four program.	$200,000	NR		
45 **NC Humanities Council Teacher Institute Program** Provides additional funds to non-profit program focused on promoting teaching and learning that develops teachers' capacities to understand, empathize with, and relate to various cultures.	$100,000	NR		
46 **PTA Parental Involvement Initiative** Provides funds to the North Carolina Congress of Parents and Teachers, Incorporated, a nonprofit organization, to implement the PTA Parental Involvement Initiative.	$262,500	NR		
47 **ExplorNet** Provides additional funds to the Centers for Quality Teaching and Learning, a program that promotes effective use of information technology in public schools, run by ExplorNet, a private non-profit organization.	$125,000	NR		
Total Legislative Changes	**$118,741,752**	**R**	**$126,560,095**	**R**
	$129,366,081	**NR**	**$2,030,000**	**NR**
Total Position Changes	8.00		8.00	
Revised Budget	**$7,714,429,569**		**$7,708,315,285**	

UNC System

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$2,525,065,071**		**$2,578,824,109**	
Legislative Changes				
A. Base Budget Adjustments				
48 **Principals' Executive Program Budget Change**	($1,266,170)	R	($1,266,170)	R
Converts the Principals' Executive Program (PEP) budget to nonrecurring funds for the FY 07-09 biennium. Funding will be returned to a recurring basis if PEP demonstrates to the General Assembly that its programs make a positive, measurable impact on conditions for teaching and learning in schools.	$1,266,170	NR	$1,266,170	NR
49 **Future Efficiency Reductions**	($15,000,000)	R	($22,000,000)	R
Reduces campus operating budgets based on future recommendations of the President's Advisory Committee on Efficiency and Effectiveness (PACE).				
50 **NC Progress Board Elimination**	($227,971)	R	($227,971)	R
Eliminates the funding for the North Carolina Progress Board, which ceased operation in December 2006.				
51 **Building Reserve Adjustments**				
Adjusts the building reserves for new and renovated buildings due to changes in completion dates, recalculation of reserve costs, and deletion of projects pending legislative approval.	($1,711,153)	NR	($4,092,971)	NR
52 **FSU Equipment Reduction**	($9,500)	R	($2,000)	R
Removes an error made in the calculation of equipment for Fayetteville State University.				
53 **Medical Scholarships Reduction**	($50,000)	R	($50,000)	R
Reduces the amount appropriated for medical scholarships for students in the State's four medical schools based on their actual tuition and fee rates instead of estimated rates.				
54 **Religious College Grant Reduction**				
Makes one-time grant reduction because Fall 2007 payments to Roanoke Bible College and Southeastern College are determined in Spring of 2007. Only $357,000 of the $420,000 appropriation is needed in FY 07-08.	($63,000)	NR		

	FY 07-08		FY 08-09	
***55* Affiliate Institutions- Efficiency Reduction**	($2,873,935)	R	($2,873,935)	R
	-11.00		-11.00	

Implements the reductions recommended by the President's Advisory Committee on Efficiency and Effectiveness (PACE) for UNC Affiliate institutions. The reductions are as follows:
Information Technology
$90,000 - Eliminate the Multimedia Educational Resource for Learning and Online Teaching (MERLOT) project and professional development support for the Teaching & Learning with Technology Conference.
$90,000 - Eliminate the Collaborative Procurement Director position in the Coordinated Technology Management program.
$223,136 - Eliminate UNC Distance Education support operation.
$550,000 - Reduce NC Research and Education Network (NCREN) equipment refresh funding.

Higher Education Student Aid Programs
$83,065 - Eliminate one applications programmer position.
$821,358 - Fund SEAA operations from state and federal receipts.
$38,089 - Eliminate SPA Program Director.

Center for School Leadership Development
$85,000 - Eliminate one Director position by consolidating teacher recruitment programs.
$25,000 - Relocate the NC Model Teacher Consortium into the CSLD facility.
$146,931 - Eliminate the Education Law North Carolina publication operation.
$135,628 - Consolidate CSLD program support into a central service operating unit.
$125,000 - Transfer State funded conferencing direct support activities to conference receipts to consistently match revenues with associated expenses.
$100,000 - Reduce Hunt Institute administrative costs through program consolidation along with implementing in-house research.

UNC Center for Public Television
$150,000 - Realize savings from operational audit.
$89,952 - Eliminate seasonal in-house manufacturing interface services by obtaining service in equipment acquisitions.

Other UNC Program Reductions
$85,170 - Leverage operational capacities between Education Pathways and SEAA.
$35,606 - Reduce personnel costs by consolidating the Higher Education Facility Commission with the Institutional Research and Analysis Division.

	FY 07-08		FY 08-09	
56 Office of the President - Efficiency Reduction Implements the reductions recommended by the President's Advisory Committee on Efficiency and Effectiveness (PACE) for the Office of the President. $1.9 million in savings were made by reducing operating expenses and by eliminating 15.5 positions in Finance(3.5), Human Resources(1), Academic Affairs(4), Information Resources(1), President's Office(1), Strategy Development and Analysis(1), University Affairs(2) and University Schools(2). Approximately $570,000 of the reduction was reallocated to hire a Chief of Staff, a VP for Economic Development, and an Audit Compliance and Oversight Officer.	($1,271,352) -12.50	R	($1,271,352) -12.50	R
57 NC Center for Nursing Eliminates funding for the North Carolina Center for Nursing in FY 08-09. Restoration of FY 2008-09 funds is subject to the findings of a legislative continuation review.	($509,824) $509,824	R NR	($509,824) -6.00	R
58 Need-Based Financial Aid Makes the UNC need-based grants 100% funded from the Escheat Fund in FY 08-09.			($21,587,990)	R
B. Expansion - Technical Adjustments				
59 Graduate Nurse Scholarship Program for Faculty Production Funds the second year of this scholarship loan program for nurse faculty production that was created in the 2006 Session. Adds 80 additional $15,000 scholarships. Priority will be given to Community College faculty needing an advanced degree to meet new accreditation standards for nursing instructors.	$1,200,000	R	$1,200,000	R
60 NC School of Science and Math Tuition Grant Funds the tuition remission for the fourth class of graduates from the NC School of Science and Math. Also adjusts the appropriation for increased tuition/fees and for increased class participation in the program. In FY 07-08, 800 students will receive an average tuition award of $3,441.	$449,905	R	$834,099	R
61 Future Teacher Scholarship Loan Funds the second year cost of the 50 scholarship loans added in the 2006 Session. The scholarships are $6,500 each.	$325,000	R	$325,000	R
62 UNC Enrollment Growth Adjustment Restores funding cut in projected enrollment cost for FY 07-08 made by the Office of State Budget and Management in the base budget process. Uses previously agreed upon enrollment funding model to project expenditures.	$5,988,206	R	$5,988,206	R
63 Private College Enrollment Growth Increases the appropriation for the Legislative Tuition Grant and the State Contractual Scholarship Fund for a 3% increase in the number of NC residents attending the State's private colleges. In FY 07-08, the number of students is projected to increase from 33,493 to 34,498.	$2,372,250	R	$2,372,250	R

	FY 07-08		FY 08-09	
64 **Elizabeth City State University Pharmacy Space** Funds the leases of six modular units that house the Pharmacy Program until a permanent facility is constructed.	$43,000	NR	$43,000	NR
65 **UNC-Pembroke Modular Building Leases** Funds the leases of two facilities that house offices of faculty that were hired due to campus growth and one facility for a new Entrepreneur Center in the School of Business.	$83,843	R	$88,035	R
C. Expansion				
66 **Need-Based Financial Aid** Funds the inflationary cost of room, board, books and supplies, and the scheduled increase in tuition and fees for the 41,143 students that receive UNC need-based grants ($22 million). Also funds the 5,421 income eligible students that typically go unfunded each year because their applications are filed after the aid has been dispersed in the spring ($13.6 million). The $35.6 million in increased cost is funded from the Escheat Fund each year.				
67 **UNC Online** Funds the continued development of UNC Online, a virtual online education center with related support and technology infrastructure that will provide one-stop access to and delivery of UNC online degree and certificate programs.	$2,000,000 $2,200,000	R NR	$2,000,000	R
68 **Information Technology Initiatives** Funds the creation of a secondary data center (hot site) for disaster recovery operations. Also funds a shared hardware platform and regional (multi-campus) hosted enterprise systems and services solution center.	$640,000	R	$640,000	R
69 **AHEC Residencies** Increases funding of the AHEC program that trains family physicians and other primary care doctors to address ongoing chronic shortages in the most underserved parts of the state. Also funds development of clinical training sites for students in pharmacy, medicine, nursing, allied health, and mental health, and supports development of programs to improve quality of care.	$570,791	R	$570,791	R
70 **ECU Brody Outpatient Center Indigent Care** Provides partial reimbursement of the free medical services ECU physicians provide to indigent patients at the Brody Outpatient Center.	$2,500,000	NR		
71 **UNC Hospitals Indigent Care** Provides funds for indigent care services at UNC Hospitals.	$1,000,000	NR		
72 **ECU Dental School Operations** Funds the professional staff needed for planning and operation of the new dental school.	$1,000,000	R	$1,000,000	R

	FY 07-08		FY 08-09	
73 **TEACCH** Provides funds to the TEACCH (Treatment and Education of Autistic and Related Communication-Handicapped Children) program for the following: 1) $175,702 - Expands TEACCHing At Home Program to Asheville and Wilmington to provide home-based early intervention services to autistic preschoolers from 18 months to 3 years of age. 2) $142,298 - Provides a 4% raise to complete the therapist pay increase plan initiated in the 2006 Session. 3) $50,000 - Provides funds to match federal research grants.	$368,000	R	$368,000	R
74 **Perinatal Mortality and Disease** Appropriates funds to the UNC-Chapel Hill School of Medicine to support the Perinatal Quality Collaborative of North Carolina. This group is committed to improving clinical and health system issues in perinatal care.	$50,000	R	$50,000	R
75 **UNC-CH Cochlear Implant Program** Appropriates funds to the UNC Board of Governors to be allocated to the Center for the Acquisition of Spoken Language through Listening Enrichment (CASTLE), which is operated by the Carolina Children's Communicative Disorders Program of The University of North Carolina Health Care System to 1) train teachers and therapists to work with deaf preschool-age children with cochlear implants and 2) provide oral preschool classes to these children.	$400,000	NR		
76 **ECU Auditory Learning Center** Appropriates funds to the UNC Board of Governors to be allocated to East Carolina University Health Sciences Division and the Auditory Learning Center to 1) train teachers and therapists to work with deaf preschool-age children with cochlear implants and 2) provide oral preschool classes to these children.	$100,000	NR		
77 **NC Research Campus at Kannapolis**	$8,500,000	R	$8,500,000	R
Provides operating funds for UNC programs located at the North Carolina Research Campus in Kannapolis. Of the recurring funds, $4.2 million is for leases and $4.3 million is for new faculty positions. The nonrecurring funds are to be used for faculty startup ($4 million) and for equipment ($4 million).	$8,000,000	NR		
78 **North Carolina Engineering Technology Center at Hickory** Provides operating funds for the North Carolina Engineering Technology Center in Hickory.	$600,000	R	$600,000	R
79 **Gateway Technology Center** Provides funding to the Gateway Technology Center located on the campus of North Carolina Wesleyan College for a) operating funds for the Center which offers online courses from East Carolina University and NC State University ($150,000) and b) support for the summer math and engineering camps for school children ($27,000).	$177,000	R	$177,000	R

	FY 07-08		FY 08-09	
80 **State Contractual Scholarship Fund Increase** Increases the State Contractual Scholarship Fund from $1,250 per Full Time Equivalent (FTE) North Carolina student in the state's private colleges to $1,350 per FTE student. These funds are for financially needy students.	$3,220,000	R	$3,220,000	R
81 **Legislative Tuition Grant Increase** Increases the Legislative Tuition Grant from $1,900 to $1,950 per North Carolina resident student in the state's private colleges.	$1,600,000	R	$1,600,000	R
82 **Legislative Tuition Grant for Part-Time Students** Expands the Legislative Tuition Grant to include part-time North Carolina resident students who take a minimum of nine credit hours per semester.	$1,500,000	R	$1,500,000	R
83 **NC LIVE for Private Colleges** Funds a portion of the costs charged to private colleges for their participation in NC LIVE (North Carolina Libraries for Virtual Education), the state's electronic library that provides access to magazine articles, national and local newspapers, business and professional journals, reference sources and research material.	$90,000	NR		
84 **Religious College Grant** Increases the Religious College Grant from $1,800 to $1,950 per North Carolina resident student attending Roanoke Bible College and Southeastern College.	$29,700	R	$29,700	R
85 **Hunt Institute** Provides funding for additional operating support and for research on improving science and math instruction, encouraging out-of-school programs, and assisting groups involved in educational improvement.	$500,000	R	$500,000	R
86 **UNC-TV Statewide Programs** Provides funds to support UNC-TV's statewide programming of North Carolina Now, North Carolina Legislative Review, and Legislative Week in Review.	$289,952	R	$289,952	R
87 **North Carolina in the World Project** Provides funds to continue the NC in the World Project which began in FY 05-06. This project is an initiative of the NC Center for International Understanding and is focused on improving students' knowledge and skills about the world.	$200,000	NR		
88 **UNC System Lateral Entry Programs** Supports lateral entry programs at the constituent institutions of The University of North Carolina. Funds shall be allocated to the programs in the amounts designated by the Board of Governors.	$750,000	NR		

	FY 07-08		FY 08-09	
89 **NCSU Center for Universal Design**				
Provides funding to this Center in the College of Design at North Carolina State University that promotes accessible and universal design in housing, buildings, outdoor and urban environments and related products. The Center works with builders and manufacturers on new design solutions and provides information, referrals and technical assistance to individuals with disabilities.	$300,000	NR		
90 **Joint Program in Nanotechnology**	$1,400,000	R	$1,400,000	R
Funds the creation of a joint graduate School of Nanoscience and Nanoengineering at NC A&T and UNCG's Millennium Campus.				
91 **North Carolina Central University Law School**	$2,500,000	R	$2,500,000	R
Provides funding to the NCCU Law School to address the American Bar Association accreditation recommendations.				
92 **UNC-CH Law School**	$2,000,000	R	$2,000,000	R
Provides funding to the UNC-Chapel Hill Law School to address deficiencies in the operating budget.				
93 **Special Focus Institutions**				
Provides additional funding to UNC-Asheville ($500,000), to the North Carolina School of the Arts ($500,000), and to the North Carolina School of Science and Math ($100,000) for nonrecurring needs. The missions and limited sizes of these institutions make it difficult for them to generate sufficient funds from the student credit hour enrollment funding model and other sources to provide the services students need.	$1,100,000	NR		
94 **Fire Protection for UNC-Pembroke**				
Provides a grant-in-aid to the Pembroke Rural Volunteer Fire Department, Inc. to purchase a 100-foot aerial fire truck and equipment to ensure adequate fire protection services to the University of North Carolina at Pembroke.	$750,000	NR		
95 **North Carolina Specialty Crops Program**				
Provides operating support to the North Carolina Specialty Crops Program, a statewide partnership of the College of Agriculture and Life Sciences at North Carolina State University and the Marketing Division of the North Carolina Department of Agriculture and Consumer Services.	$300,000	NR		
96 **EARN Scholars**	$27,605,210	R	$60,000,000	R
Funds the proposed EARN (Education Access Rewards North Carolina) Scholars program. This program will be funded with $27.6 million from the General Fund in FY 07-08 and $60 million from the General Fund and $40 million from the Escheat Fund in FY 08-09.				

	FY 07-08		FY 08-09	
97 **Veterinary Medicine Clinical Teaching and Research Fund**				
Provides funds to the NC State University College of Veterinary Medicine to establish a Veterinary Medicine Clinical Teaching and Research Fund. This fund will allow advanced diagnostic and treatment options for animals where a) owner financing of such options are limited, b) significant instructional value exists, or c) the diagnostic and treatment options have the potential of adding significantly to core knowledge in the relevant clinical area.	$200,000	NR		
98 **Shellfish Restoration Funds**				
Funds a shellfish restoration project conducted by the UNC-Chapel Hill Institute of Marine Sciences in Morehead City. The project will attempt to 1) restore the North Carolina bay scallop, 2) conduct a pilot project to protect oyster sanctuaries from cownose ray and skate predation, and 3) evaluate and combat the damage done by the cownose rays and skates to seagrass nursery habitat. The UNC-Chapel Hill Institute of Marine Sciences shall work in conjunction with the Department of Environment and Natural Resources to facilitate this initiative.	$300,000	NR		
99 **Statewide Program for Infection Control and Epidemiology**				
Funds the Statewide Program for Infection Control and Epidemiology (SPICE) at the UNC-Chapel Hill School of Medicine.	$150,000	NR		
100 **UNC Press**				
Provides funds to establish a Digital Asset Management System to manage and manipulate electronic files for all new books, and to digitize out-of-print titles.	$160,000	NR		
101 **NCSU Entrepreneurship & Regional Cluster-Based Economic Development Funds**				
Provides funding to NCSU to expand the activities of the Industrial Extension Service, foster new microenterprises, capture the production of new high technology-based products, and pursue focused recruitment and retention efforts in high-priority job clusters.	$500,000	NR		
102 **NCSU College of Engineering**	$5,000,000	R	$5,000,000	R
Provides additional operating funds for the bioengineering program in the NCSU College of Engineering.	55.00		55.00	

	FY 07-08		FY 08-09	
103 **Teacher Education Recruitment and Retention Efforts** Provides funds to implement teacher recruitment and retention efforts in the UNC system's 15 teacher education programs. Of these funds, $750,000 is dedicated to the following: 1) To NCSU to strengthen on-going programs to develop new teaching methods for science and math teachers across the state, including the Kenan Fellows program and the statewide network of 4-H educational programs. 2) To UNC-CH to support a model program to train new teachers in science and math education and develop a National Board Science and Math Teacher Center in collaboration with the Center for Teaching Quality, which will increase the number of National Board certified teachers in hard-to-staff schools.	$1,500,000	R	$1,500,000	R
104 **Principals' Executive Program Leadership Program for Middle & High Schools** Continues the joint effort of the Principals' Executive Program (PEP) and the Kenan-Flagler Business School at UNC-CH to improve the management and leadership skills of leadership teams from low-performing middle and high schools. This funding will cover the cost of Kenan-Flagler's services, instructor fees, books and materials, lodging, and venue rental for 110 participants each year.	$607,000	NR		
105 **UNC/NCCCS 2+2 Joint E-Learning Initiative** Provides recurring funds for the UNC/NCCCS 2+2 Joint E-Learning Initiative that was established in 2005 with nonrecurring funds. In FY 2007-09 biennium, these funds will be used to develop a method to track student progress and articulation among and across campuses and to develop technology to support online courses and 2+2 programs.	$1,000,000	R	$1,000,000	R
106 **Academic Summer Bridge and Retention Pilot Programs** Funds Academic Summer Bridge and Retention Pilot Programs at the seven Focused Growth institutions (ECSU, FSU, NC A&T, NCCU, UNCP, WCU, and WSSU) to target first generation college students or students requiring additional college preparation. Students will attend a four to five week residential summer session before their freshman year to study English and math. Students attending these sessions will earn 6 hours of credit toward their degree.	$1,193,000	R	$1,193,000	R
107 **Graduate Student Recruitment and Retention** Funds new tuition waivers aimed at recruiting and retaining top tier graduate students in science and technology.	$2,000,000	R	$2,000,000	R
108 **Biomanufacturing Research Institute & Technology Enterprise (BRITE)** Provides additional operating funds for the Biomanufacturing Research Institute & Technology Enterprise (BRITE) initiative at NCCU.	$1,000,000	R	$1,000,000	R

	FY 07-08		FY 08-09	
109 **Competitiveness Fund**				
Creates a research competitiveness fund to support strategic investments in emerging areas of importance to the economic competitiveness of the state. The awards would emphasize interdisciplinary research to encourage the involvement of multiple UNC campuses. The fund would be focused on such areas as: Nanosciences, Marine Sciences, Natural Products, Environmental Sciences, Information Technology, Biomanufacturing, Port Logistics, Marine Aerodynamics, Pharmacogenomics, Biomedical Sciences, Advanced Materials Sciences and Biotechnology.	$3,000,000	NR		
110 **University Cancer Research Fund**	$5,600,000	R	$15,500,000	R
Provides General Fund support to the President of the University of North Carolina for distribution to UNC Hospitals for cancer research. The following funds are also appropriated to the University Cancer Research Fund: 1) $8 million from the Tobacco Trust Fund each year and 2) $11.4 million in FY 07-08 and $16.5 million in FY 08-09 from an increase in the tax on tobacco products other than cigarettes. The total available in the University Cancer Research Fund is $25 million in FY 07-08 and $40 million in FY 08-09. A total of $50 million will be available in FY 09-10 and annually thereafter.				
111 **Distinguished Professors Endowment Fund**				
Provides $4.6 million to be administered by the University of North Carolina Board of Governors for a private Challenge Grant Initiative to be allocated to each of the sixteen constituent universities as per G.S. 116-41.5. Provides $1.4 million to be administered by the UNC Board of Governors to address the existing backlog of endowed professorships.	$6,000,000	NR		
112 **Center for Design Innovation**	$500,000	R	$500,000	R
Provides funding for the Center for Design Innovation, a program jointly operated by the NC School of the Arts, Winston-Salem State University, and Forsyth Technical Community College since 2004. This Center specializes in the application of digital design in entertainment, life science, education, product design, and product marketing to generate and facilitate design-focused instruction, research, workforce development, and entrepreneurial activity; to promote educational programming that emphasizes innovation; and to act as a design-based business cluster accelerator in the Piedmont Triad.				

	FY 07-08		FY 08-09	
113 **Inland Port Study**				
Provides funding to the Institute for the Economy and the Future of Western Carolina University, to study the feasibility of establishing an inland port within the 23 county region of the North Carolina Regional Economic Development Commission, known as AdvantageWest. Western Carolina University shall work with AdvantageWest in conducting the study.	$100,000	NR		
114 **The Soldier Institute for Regenerative Medicine**				
Provides funds to Wake Forest Institute for Regenerative Medicine at Wake Forest University to attract federal investment in The Soldier Institute for Regenerative Medicine at Piedmont Triad Research Park to develop advanced regenerative techniques for treatment of soldier wounds – from the battlefield to the hospital and through long-term care by creating major tissue reconstruction for limbs, fingers and toes, facial reconstruction, and skin burn repair. Except as may be restricted by the Department of Defense, the contract for the grant shall require the grantee to provide the State an equitable share of any revenue from patents, royalties, licensing agreements, or other ancillary revenues that might be generated.	$8,000,000	NR	$4,000,000	NR
115 **Teacher Education Pilot Program**	$750,000	R	$750,000	R
Provides funds for summer term teacher education programs at UNC campuses.				
116 **Center for Bioenergy Technologies**				
Provides funds to expand initiatives at North Carolina State University for research and development of bioenergy technologies. Three components of the Center for Bioenergy Technologies would be (i) new technologies for efficient and clean use of traditional energy sources; (ii) alternative, environmentally safe, and renewable energy sources; and (iii) research of energy technologies and the impacts on the environment and North Carolina's rural economy. The Southeastern Energy Field Laboratory (Duplin Co.) would be the focal point of the production and bioprocessing of various agricultural substrates into biofuels. It also would serve as a demonstration facility by being operated using alternative energy sources including bioenergy, wind, thermal, or solar.	$1,500,000	NR		
117 **John B. McLendon Leadership Awards**				
Establishes the John B. McLendon Scholarship Fund to award two leadership scholarships each year to two student athletes at each of North Carolina's ten Historically Black Colleges and Universities. The $1,250 awards are paid from the interest of the Fund beginning in FY 08-09.	$500,000	NR		

	FY 07-08		FY 08-09	
118 **Hugh Morton Collection**				
Provides funds to the North Carolina Collection in the Louis Round Wilson Library at UNC-Chapel Hill to process and preserve the collection of photographic prints and negatives donated by Hugh Morton.	$150,000	NR		
Total Legislative Changes	**$62,304,105**	**R**	**$76,406,791**	**R**
	$38,901,841	**NR**	**$1,216,199**	**NR**
Total Position Changes	31.50		25.50	
Revised Budget	**$2,626,271,017**		**$2,656,447,099**	

Community Colleges

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$892,934,482**		**$893,151,875**	
Legislative Changes				
A. Enrollment and Tuition				
***119* Fully Fund Enrollment Growth** Provides funds to fully fund enrollment growth. Community college enrollment has increased by 2,296 FTE, from 193,027 to 195,323, an increase of 1.2%. This enrollment growth requires a total appropriation of $8.8 million. The continuation budget included $5.5 million for this purpose. However, the data needed to accurately calculate enrollment growth requirements were not available at the time the continuation budget was developed. This appropriation provides the remaining $3.3 million needed.	$3,315,117	R	$3,315,117	R
***120* Increase Tuition by 6.3%** Increases community college tuition by 6.3%. In-state tuition will increase from $39.50 to $42.00 per credit hour up to 16 hours; full-time resident students will pay $672 per semester or $1,344 per year. Out-of-state tuition will increase from $219.50 to $233.30 per credit hour up to 16 hours. These additional tuition receipts will remain with the NC Community College System to fund expansion items, increasing total spending by an additional $7.5 million.	($7,500,000)	R	($7,500,000)	R
***121* Enrollment Growth Reserve** Provides funds for an Enrollment Growth Reserve to assist colleges that experience high growth in the fall semester. Funds shall be distributed to colleges that realize an increase greater than 5% over the previous fall semester.	$2,000,000	NR		
B. Formula Enhancement				
***122* Allied Health** Provides additional funds to support allied health programs. Funds may be used for allied health equipment and supplies, or to supplement the salaries of allied health faculty. Funds shall be distributed on the basis of Allied Health FTE.	$5,600,000	R	$5,600,000	R
C. Distance Learning				
***123* Data Connectivity** Provides funds to increase community college bandwidth. Enhanced connectivity is necessary to expand distance learning initiatives. Funds shall be used to provide base-level bandwidth at each community college commensurate with institutional size.	$3,827,600	R	$3,827,600	R

	FY 07-08		FY 08-09	
124 **Virtual Learning Centers**	$550,000	R	$550,000	R
Provides funds to establish three additional Virtual Learning Centers (VLCs). VLCs develop and refine online course content. The VLCs shall be established by the System Office through a request for proposal (RFP) process, soliciting participation from colleges interested in hosting a VLC. Funds may be used for staff and operating expenses related to course development, course editing, and professional development of instructors delivering online instruction.	$45,000	NR		
125 **Virtual Computing Lab**	$130,600	R	$130,600	R
Provides funds to contract for 100 "seats" dedicated for community college students at NCSU's Virtual Computing Lab. The lab provides students state-of-the-art secure computing services, either as part of classroom instruction or individualized assistance. The virtual computing lab should result in reduced IT support, computer down-time, and duplicative software costs.	$500,400	NR		
126 **Distance Learning System Office Support**	$255,743	R	$255,743	R
Provides funds to establish three positions - an instructional designer, an applications integrator, and an IT services support analyst - to support the NCCCS's distance learning initiatives.	$6,000	NR		
	3.00		3.00	
D. Categorical and Miscellaneous Programs				
127 **Reallocate Minimum Faculty Salary Adjustment Funds**	($1,200,000)	R	($1,200,000)	R
Eliminates funding appropriated in 2004 for specific full-time faculty members that were being paid below the minimum salary levels adopted that year by the General Assembly and reallocates those funds to support community college expansion items.				
128 **Equipment**				
Provides additional funds for the purchase of instructional equipment at all 58 community colleges. These funds shall be distributed in accordance with the existing equipment formula.	$10,000,000	NR		
129 **Multi-Campus Center Funds**	$100,000	R	$100,000	R
Provides additional funds to support multi-campuses centers (MCCs), satellite campuses that provide students services and at least one degree program. One additional MCC - Ashe County MCC of Wilkes Community College - was approved by the State Board of Community Colleges in FY 2006-07, bringing the total number of MCCs to 24.				

	FY 07-08		FY 08-09	
130 **NC Military Business Center**	$1,250,000	R	$1,250,000	R
Provides funds for the continued operation of the NC Military Business Center (NCMBC), a program run by Fayetteville Tech in conjunction with Craven CC, Coastal Carolina CC, and Wayne CC. The NCMBC fosters statewide business development originating from the five military bases in the State. Funds are also used to sustain MatchForce.org, the State's website for matching NC businesses with federal contracting opportunities.				
131 **NC REAL**				
Provides funds for NC REAL (NC Rural Entrepreneurship through Active Learning). This program was formerly supported by the Worker Training Trust Fund.	$250,000	NR		
132 **Motorsports Consortium Funds**				
Provides funds for curriculum development activities of the North Carolina Motorsports Consortium, which is established to help create a highly trained workforce to support the State's motorsports industry.	$500,000	NR		
133 **Hosiery Technology Center**				
Provides funds to establish a research and development center for the seamless manufacturing industry. The center shall operate under the Hosiery Technology Center at Catawba Valley Community College and Randolph Community College. These funds shall be used to enhance diversification in hosiery manufacturing operations where seamless production is compatible with hosiery manufacturing.	$100,000	NR		
134 **Male Minority Mentoring**				
Provides funds to expand the Male Minority Mentoring program to 15 additional community colleges.	$475,000	NR		
135 **NC Center for Viticulture and Enology**				
Provides funds for the NC Center for Viticulture and Enology located at Surry Community College. Funds may be used for equipment, staff, and building operations. An additional $500,000 has been appropriated in the Department of Commerce budget for viticulture promotion, providing a total of $1 million for the advancement of the viticulture industry in the State.	$500,000	NR		
136 **NC Research Campus**	$100,000	R	$100,000	R
Provides funds for the Rowan-Cabarrus Community College Biotechnology Training Center and Greenhouse at the NC Research Campus in Kannapolis. Funds may be used for equipment, staff, and building operations.	$1,300,000	NR		

	FY 07-08		FY 08-09	
E. System Office				
137 **Workers' Compensation Analyst**	$62,068	R	$62,068	R
Establishes one workers' compensation analyst position in the System Office to administer workers' compensation claims for NCCCS and to work with community colleges to identify methods and practices to contain workers' compensation costs. The community college shall implement risk management strategies to reduce claims at least by an amount equivalent to the cost of this position.	$4,150	NR		
	1.00		1.00	
F. Community College Capital				
138 **Advanced Planning Funds**				
Provides funds for advanced planning of community college capital projects and the development of facility master plans. These funds shall be matched in accordance with G.S. 115D-31.	$8,000,000	NR		
139 **Facilities and Equipment Grant Fund**				
Provides funds for the purpose of awarding grants to community colleges for facility and equipment needs. Grants shall be awarded based on a competitive grant application process that gives priority to projects that are consistent with the college's strategic plan, to projects that have a high potential for promoting economic development, and to colleges that did not receive a grant during FY 2006-07.	$15,000,000	NR		
Total Legislative Changes	**$6,491,128**	R	**$6,491,128**	R
	$38,680,550	NR		
Total Position Changes	4.00		4.00	
Revised Budget	**$938,106,160**		**$899,643,003**	

HEALTH
&
HUMAN SERVICES
Section G

2070

Health and Human Services

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$4,532,083,971**		**$4,820,403,092**	
Legislative Changes				
(1.0) Office of the Secretary				
***1* Department-Wide Reduction Reserve** Reduces funding from the line items in the following budget categories: purchased services (2000), supplies (3000), property, plant, and equipment (4000), and other expenses (5000).	($1,775,000)	NR		
***2* Controller's Office Reduction** Eliminates funding for the continuation budget increase in the Controller's Office for the Financial Audit Consulting Fees line item.	($549,641)	R	($549,641)	R
***3* Information Resource Management Reduction** Reduces funding for inflationary increases for the Communications and Data processing line item in the Division of Information Resource Management.	($1,500,000)	R	($3,000,000)	R
***4* Automation Reserve Fund Reduction** Reduces funding for the Automation Reserve Fund.	($1,000,000)	R	($1,000,000)	R
***5* Office of Policy and Planning** Eliminates recurring funding for the Office of Policy and Planning and provides nonrecurring fund for the program in FY 2007-08. This program is subject to continuation review.	($414,536) $414,536	R NR	($414,536) -5.00	R
***6* Prior Year Earned Revenue - Department-Wide** Requires prior year earned revenue to be budgeted throughout the department and reduces State appropriations.	($3,385,000)	NR		
***7* Unbudgeted Non-Federal Receipts - Department-Wide** Requires unbudgeted non-federal receipts to be budgeted throughout the department and reduces State appropriations.	($4,105,142)	NR		
***8* Medicaid Management Information System (MMIS)** Provides funding to support the Office of Medicaid Management Information Services and to replace the Medicaid Management Information System.	$3,855,142	NR		
***9* Legal Services** Provides funding for a contract with the Department of Justice for additional legal support for the following Divisions: Health Service Regulation, Medical Assistance, and Child Development.	$300,000	R	$300,000	R

	FY 07-08		FY 08-09	
10 **NC Health Net**				
Provides funding to sustain provider networks that coordinate free care for low-income, uninsured patients.	$2,880,000	NR		
11 **Health Care Access**				
Provides funding for a grant-in-aid to the North Carolina Association for Healthcare Access for operations, board development, and an annual conference.	$250,000	NR		
12 **Aid to Community Health Centers**				
Provides funding on a competitive grant basis to rural health centers, local health departments, qualified health centers, free clinics, school-based clinics, and entities providing preventive care.	$5,000,000	NR		
13 **Medication Access and Review Program**	$512,835	R	$633,920	R
Provides realigned funding from the Atypical Antipsychotic Drug program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the Medication Access and Review Program (MARP). MARP streamlines the process of obtaining free prescription drugs from pharmaceutical manufacturers' Prescription Assistance Programs.				
14 **Medical and Dental Recruitment Incentives**	$349,000	R	$349,000	R
Provides funding to increase resources to recruit and retain primary medical and dental providers in health shortage areas.				
15 **Health Information Systems**	$775,086	R	$775,086	R
Provides funding to complete and implement a new Health Information System to capture, monitor, report, and bill services provided by local health departments.	$4,287,834	NR		
16 **Rural Hospital Operations and Maintenance**				
Provides funding for small rural hospitals for assistance with operations and infrastructure maintenance.	$2,000,000	NR		
17 **NC Rx Program**				
Provides funding for the Seniors Health Insurance Information Program to provide grants-in-aid to community organizations to assist seniors in enrolling in NCRx and Medicare Part D.	$250,000	NR		
18 **CARELINE**	$361,261	R	$481,681	R
Provide funding for ten new positions to increase staffing for the CARELINE from an eight to five, five days a week program to a twenty-four hour, seven days a week program. The new positions include eight Information and Referral Specialists and two Administrative Officer Is.	$12,330	NR		
	10.00		10.00	

	FY 07-08		FY 08-09	
19 **Housing and Homelessness Positions** Provides funding to convert three time-limited, grant supported positions to permanent, full-time staff funded through the General Fund. The positions include one community development specialist and two human services planners. These positions support departmental housing and homelessness initiatives.	$248,341 3.00	R	$248,341 3.00	R
20 **Institute of Medicine Studies** Provides funding for the Institute of Medicine to hire staff to undertake additional studies annually at the request of the North Carolina General Assembly, including a specific study on substance abuse services. Also provides funding to support a rapid-response capacity to analyze secondary data sources on health or provide other health-related data to the North Carolina General Assembly and to State and local government agencies.	$300,000	R	$300,000	R
(2.0) Division of Aging and Adult Services				
21 **Pilot for Adult Care Home Quality Improvement** Provides funding to support the Quality Improvement Pilot Initiative, a collaboration between the adult care home industry and the State. The pilot will include up to 100 adult care homes in the following counties: Alamance, Buncombe, Nash, and Rutherford.	$264,000	NR	$264,000	NR
22 **Area Agencies on Aging** Provides funding for the seventeen Area Agencies on Aging for services and planning activities, including funding for professional and administrative services to benefit senior citizens. Also provides funding to support and coordinate aging services and activities throughout the State.	$300,000	R	$300,000	R
23 **Senior Center General Purpose Fund** Provides funding for the Senior Center General Purpose Fund to provide additional funding for senior centers.	$200,000	NR		
24 **Home and Community Care Block Grant** Provides funding for the Home and Community Care Block Grant Program.	$536,000	R	$536,000	R
25 **Receipt-Supported Position - Division of Aging and Adult Services** Creates one new position in the Division of Aging and Adult Services to provide day-to-day coordination of a health promotion program to reduce the disability of chronic disease among seniors. Aging Program Specialist II - $66,988 This position is 100 percent receipt-supported through a grant from the federal Administration on Aging and state match.				

	FY 07-08		FY 08-09	
(3.0) Division of Child Development				
26 **Under-Budgeted Receipts - Licensure Fees** Increases budgeted receipts from licensure fees to reflect actual collections and reduces State appropriations.	($20,000)	R	($20,000)	R
27 **Under-Budgeted Receipts - Sale of Publications** Increases budgeted receipts from the sale of publications to reflect actual collections and reduce State appropriations.	($10,000)	R	($10,000)	R
28 **Touching the Lives of Children** Eliminates funding for the grant-in-aid to Touching the Lives of Children.	($300,000)	R	($300,000)	R
29 **Child Care Subsidies** Provides funding to remove 643 children from child care subsidy waiting lists and implements rate adjustments, by region, as defined in the 2007 Child Care Market Rate Study. Additional funding in the Child Care Development Fund Block Grant will remove 877 children from the waiting lists.	$8,400,000	R	$8,400,000	R
30 **T.E.A.C.H. Program** Provides funding to the North Carolina T.E.A.C.H. Early Childhood Project.	$1,100,000	R	$1,100,000	R
31 **Smart Start** Provides funding for local Smart Start initiatives.	$1,285,870	R	$5,510,739	R
(4.0) Office of Education Services				
32 **Utilities Inflationary Increase Reduction** Reduces funding for the continuation budget increase for utilities by 50 percent.	($122,661)	R	($130,321)	R
33 **Equipment Reduction** Eliminates funding for the continuation budget increase for equipment in FY 2007-08.	($151,255)	NR		
34 **Textbooks Reduction** Eliminates funding for the continuation budget increase for textbooks.	($73,243)	R	($77,466)	R
35 **Student Life Services at GMS** Provides funding to add three student life services staff at the Governor Morehead School for the Blind.	$68,288 3.00	R	$91,051 3.00	R
36 **Resource Officers at Schools for the Deaf** Provides funding to contract for school resource officers at the Eastern NC School for the Deaf and the NC School for the Deaf in Morganton.	$82,000	R	$82,000	R

	FY 07-08		FY 08-09	
37 **Behavior Support at Schools for the Deaf and Blind**	$106,712	R	$142,283	R
Provides funding to add two behavior programming technicians at the Eastern NC School for the Deaf and the Governor Morehead School for the Blind to support the North Carolina Positive Behavior Support Program.	4.00		4.00	
38 **Beginnings, Inc.**	$229,151	R	$229,151	R
Provides funding for family support services for children who are deaf or hard of hearing.				
(5.0) Division of Public Health				
39 **Under-Budgeted Receipts - State Public Health Laboratory**	($4,000,000)	R	($4,000,000)	R
Increases budgeted receipts from Medicaid for the State Public Health Laboratory to reflect actual collections and reduce State appropriations.				
40 **Utilities Inflationary Increase Reduction**	($25,000)	R	($25,000)	R
Reduces funding for the continuation budget increase for the utilities line item in the Division of Public Health.				
41 **Dental Health Services**	($125,000)	R	($125,000)	R
Eliminates funding for a portion of the Drugs and Pharmaceutical Supplies line item in Dental Health Services Program and appropriates nonrecurring funding for FY 2007-08. This line item is subject to continuation review.	$125,000	NR		
42 **Child Developmental Service Agencies**	($4,000,000)	R	($4,000,000)	R
Reduces a portion of the funding for the Child Developmental Service Agencies and appropriates nonrecurring funding for each year. The Child Developmental Centers are directed to increase receipts from Medicaid and insurance to offset the nonrecurring appropriations. This program is subject to continuation review.	$4,000,000	NR	$3,000,000	NR
43 **Pandemic Influenza Planning**	$50,400	R	$50,400	R
Provides funding for the purchase of 634,458 treatment courses of antivirals (507,566 of Tamiflu and 126,892 of Relenza). The federal government will pay for 25 percent of the cost of purchasing the antivirals. Additionally, provides funding for climate controlled storage space for the antivirals.	$8,254,618	NR	$1,136,639	NR
44 **Public Health Lab Testing**	$235,877	R	$329,895	R
Provides funding and positions to expand testing at the state public health laboratory for Human Papilloma Virus (HPV), food-borne diseases, tick-borne diseases, and HIV testing for pregnant women. The two positions are a medical laboratory technologist and an accountant technician. In addition to the appropriation from the General Fund, $128,212 in FY 2007-08 and $128,283 in FY 2008-09 in receipts will support the expansion of these tests.	$2,500	NR		
	2.00		2.00	

	FY 07-08		FY 08-09	
45 Food-borne/Tick-borne Diseases	$280,747	R	$374,329	R
Provides funding for two nurse consultant/epidemiologist positions (one focusing on food-borne diseases and one focusing on tick-borne diseases). Additionally provides $25,000 in each year for tick control demonstration projects. Also provides $145,862 in FY 2007-08 and $139,802 in FY 2008-09 to be transferred to the Department of Environment and Natural Resources to fund their participation in the tick control demonstration projects.	$6,060 2.00	NR	 2.00	
46 HIV Prevention - Counseling and Testing	$2,000,000	R	$2,000,000	R
Provides funding for HIV prevention for the following purposes: - Funding to local health departments, historically black colleges and universities, and other community organizations for HIV counseling, testing, and early medical interventions. - Funding to implement 3 community-based harm reduction programs as a part of a comprehensive Hepatitis C and HIV disease prevention program. These funds shall be used to support these programs in providing case management services, outreach, transportation, referrals for housing and medical care, and other services that will further the purpose of HIV and Hepatitis-C prevention. - Funding to support peer-to-peer counseling efforts.				
47 ADAP Inflation Correction			$500,000	R
Provides funding to correct inflation in the second year of the biennium for the AIDS Drug Assistance Program to maintain the FY 2007-08 funding level in FY 2008-09.				
48 Health Disparities Initiative				
Provides funding for grants-in-aid awarded through the Community-Focused Eliminating Health Disparities Initiative (CFEHDI).	$500,000	NR		
49 Special Population Dentistry				
Provides funding for a mobile dental provider to deliver services to the frail elderly and persons with disabilities in unserved areas.	$200,000	NR		
50 Healthy Carolinians				
Provides funding for local health departments to establish and maintain necessary infrastructure to reduce rates of diabetes, cancer, heart disease, obesity, injury, and infant mortality.	$1,000,000	NR		
51 Women's Health Services	$200,000	R	$200,000	R
Provides funding for family planning services to uninsured women who are not eligible for Medicaid.				

	FY 07-08		FY 08-09	
52 **Monitoring of Birth Defects**	$200,000	R	$200,000	R
Provides funding for the surveillance and collection of clinical data on birth defects, and linking the data to vital statistics, newborn metabolic screening, and children's health services. Also provides funding for three new positions for birth defects monitoring registry. Those positions are two Social Research Assistant IIs, and one Social Research Associate.	3.00		3.00	
53 **Aid to Local Health Departments**	$2,000,000	R	$2,000,000	R
Provides funding to local health departments, based on need and current health data, for the ten essential services of public health.				
54 **Health Care Provider Training**	$150,000	R	$150,000	R
Provides funding for development, training, and communications initiatives among hospitals and emergency medical services for stroke victims.				
55 **Stroke Public Awareness**				
Provides funding for a stroke public awareness campaign, a survey of gaps and needs in the prevention and treatment of stroke, and to continue to the Justus-Warren Heart Disease and Stroke Task Force.	$360,000	NR		
56 **NC Collaborative Stroke Registry**	$390,000	R	$390,000	R
Provides funding for the state match to existing federal funds for the NC Collaborative Stroke Registry to increase hospital participation in the registry.				
57 **Funds for UNC School of Medicine OASIS Program**	$100,000	R	$100,000	R
Provides funding for the UNC School of Medicine Department of Psychiatry for the Outreach and Support Intervention Services (OASIS) Program to provide early treatment to adolescents diagnosed with schizophrenia.				
58 **Breast and Cervical Cancer Control Program**	$2,000,000	R	$2,000,000	R
Provides funding for additional screening and diagnostic services for breast and cervical cancer through the North Carolina Breast and Cervical Cancer Control Program.				
59 **School Nurse Funding**	$2,700,000	R	$3,300,000	R
Provides funding for an additional 54 school nurse positions in FY 2007-08 and 66 school nurse positions in FY 2008-09.				
60 **Recruitment of Minorities into Pharmacy Schools**				
Provides funding to continue a pilot program to enhance recruitment of minority students for Schools of Pharmacy.	$275,000	NR		
61 **Adolescent Pregnancy Prevention**	$100,000	R	$100,000	R
Provides funding for a grant-in-aid to the Adolescent Pregnancy Prevention Coalition of North Carolina.	$75,000	NR		

	FY 07-08		FY 08-09	
62 Funds for Healthy Start Foundation Provides funding for a grant-in-aid to the Healthy Start Foundation.	$150,000	R	$150,000	R
63 Funds for Pediatric Diabetes Education and Prevention Provides funding for the support and expansion of community-based pediatric education and prevention programs. A portion of these funds used to contract with non-profit entities.	$250,000	NR		
64 Safe-Sleep Awareness Campaign Provides funding for the development and implementation of a safe-sleep awareness campaign to strengthen SIDS risk reduction.	$150,000	NR		
65 Prevention of Pre-term Births Provides funding to educate women on the benefits of progesterone for those who have had pre-term births and to purchase medication for eligible minority and low-income women.	$97,000	NR		
66 Prevent Blindness Provides funding for a grant-in-aid to Prevent Blindness North Carolina to expand the Pre-K Vision Screening Program.	$150,000	NR		
67 Receipt-Supported Position - Division of Public Health Creates one new position in the Division of Public Health to coordinate the Centers for Disease Control-funded, hospital-based, public health epidemiologist positions in the 11 largest hospital systems in the state. Public Health Nurse Consultant II - $84,207 This position is 100 percent receipt-supported through a grant from the federal Centers for Disease Control.				
68 Receipt-Supported Position - Division of Public Health Creates one new position in the Division of Public Health to plan, organize, implement, and administer the Diabetes Education Umbrella project. Public Health Nurse Consultant II - $80,345 This position is 100 percent receipt-supported through a grant with the federal Centers for Disease Control.				
69 Receipt-Supported Position - Division of Public Health Creates one new position in the Division of Public Health to provide leadership and direct the clinical activities of the Family Planning and Reproductive Health Unit. Public Health Nurse Consultant II - $81,911 This position is 100 percent receipt-supported through the federal Family Planning Block Grant.				

	FY 07-08		FY 08-09	
70 **Receipt-Supported Position - Division of Public Health** Creates one new position in the Division of Public Health to provide expert statewide training and technical assistance to tobacco-use prevention and treatment programs, with an emphasis on health care providers. Public Health Nurse Consultant II - $58,506 This position is 100 percent receipt-supported through the federal CDC Tobacco Prevention and Control Program.				
71 **Receipt-Supported Position - Division of Public Health** Creates one new position in the Division of Public Health to support activities to expand the identification, recruitment, enrollment, and training of health care providers to participate in the vaccine program to serve adolescents. Public Health Consultant I - $57,418 This position is 100 percent receipt-supported through a federal Centers for Disease Control grant.				
72 **Receipt-Supported Position - Division of Public Health** Creates one new position in the Division of Public Health to serve as an influenza specialist and have sole responsibility for influenza surveillance testing. Lab Medical Specialist - $54,362 This position is 100 percent receipt-supported through a grant from the federal Centers for Disease Control.				
73 **Receipt-Support Position - Division of Public Health** Creates one new position in the Division of Public Health to support the Paul Coverdell National Acute Stroke Registry and use the registry to improve the delivery of care to patients with acute stroke. Public Health Consultant I - $61,249 This position is 100 percent receipt-supported through a grant from the federal Centers for Disease Control.				
(6.0) Division of Social Services				
74 **State/County Special Assistance** Reduces funding for the State/County Special Assistance Program based on lower enrollment projections.	($500,000)	R	($500,000)	R
75 **State/County Special Assistance Rate Adjustment** Provides funding for an increase the State/County Special Assistance monthly rate from $1,148 to $1,173 per month, effective October 1, 2007.	$1,875,000	R	$2,500,000	R

	FY 07-08		FY 08-09	
76 Child Welfare Post-Secondary Support Program	$2,003,600	R	$3,718,250	R
Provides funding to implement a new program to meet the post-secondary educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12. The program will provide tuition, fees, room and board, and books to these children that attend public institutions of higher education in this State. Provides $1,553,600 in FY 2007-08 and $3,168,250 in FY 2008-09 from the Escheat Fund and $1,553,600 in FY 2007-08 and $3,168,250 from the General Fund for the scholarship awards. Provides $400,000 in FY 2007-08 and $500,000 in FY 2008-09 from the General Fund for the Division of Social Services to contract with an entity to administer the program and to provide support services to scholarship participants. Provides $50,000 in FY 2007-08 and FY 2008-09 from the General Fund to the NC State Education Assistance Authority to administer the program's scholarship funds.				
77 Hearings and Appeals Program	$88,993	R	$118,657	R
Provides funding to add a hearing officer supervisor and two hearing officers in the DHHS Office of Hearings and Appeals.	$6,607 3.00	NR	 3.00	
78 Child Welfare Oversight	$121,160	R	$161,547	R
Provides funding to support three Social Services Program Consultant positions to strengthen oversight of Child Welfare Services.	$11,261 3.00	NR	 3.00	
79 Food Banks				
Provides funding to be equally distributed to the regional network of food banks in North Carolina.	$1,000,000	NR		
80 Child Advocacy Centers				
Provides funding for grants-in-aid for each certified child advocacy center.	$250,000	NR		
(7.0) Division of Medical Assistance				
81 FY 2007-08 Provider Inflationary Increases	($35,441,213)	R	($37,707,413)	R
Reduces funding for FY 2007-08 Medicaid provider inflationary increases. The reduction applies to all Medicaid private and public providers with the following exceptions: federally qualified health clinics, rural health centers, school-based and school-linked health centers, state institutions, pharmacy, outpatient hospital, and the noninflationary components of the case-mix reimbursement system for nursing facilities.				
82 Drug Utilization Management Savings	($5,000,000)	R	($5,000,000)	R
Reduces funding for the Medicaid Program due to additional drug utilization management activities and the implementation of new federal payment requirements for generic prescription drugs.				

	FY 07-08		FY 08-09	
83 **Cost Containment Activities** Reduces funding for the Medicaid Program due to savings from the implementation of new software and other activities related to prior authorization and utilization review of high-cost diagnostic testing, automated pharmacy procedures, and increased fraud and abuse detection and recovery activities.	($15,345,711)	R	($16,996,129)	R
84 **Mental Health Drug Management** Reduces funding due to savings from the management of mental health prescription drugs.	($2,000,000)	R	($2,000,000)	R
85 **Prior Authorization - Personal Care Services** Reduces funding due to savings from the prior authorization of all personal care services. Effective October 1, 2007.	($2,907,387)	R	($3,387,384)	R
86 **Medicaid Special Fund Replacement Funding** Provides funding for the Medicaid Program to reduce funding from the transfer from the Medicaid Special Fund. This transfer has been reduced to provide $10,000,000 for the hospital supplemental payment program to maintain payments for private non-profit hospitals at the FY 2006-07 percentages.	$10,000,000	NR	$10,000,000	NR
87 **In-Home Services Rate Adjustment** Provides funding for rate increases for home health personal care services providers. Effective October 1, 2007	$1,875,000	R	$2,500,000	R
88 **Increase Division Staff** Provides funding for fourteen additional staff in the Division of Medical Assistance: two DMA Nurse Is, one DMA Services Consultant, four Income Maintenance Quality Analysts, and seven Accountant IIs.	$327,412 14.00	R	$436,549 14.00	R
89 **CAP-MR/DD Slots** Provides funding for 300 additional Community Alternatives Program-Mental Retardation/Developmental Disability (CAP-MR/DD) slots. Funding for this item comes from realigned developmental disability services funding in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.	$4,500,000	R	$4,500,000	R
90 **Expand Medicaid Coverage for Foster Care Adolescents** Provides funding to expand Medicaid coverage to foster care adolescents ages 18, 19, and 20 under the Federal Foster Care Independence Act.	$216,466	R	$645,841	R
91 **County Medicaid Share** Provides funding to reduce the county share of Medicaid from 15% of the nonfederal share to 11.25% of the nonfederal share effective October 1, 2007 and 7.5% of the nonfederal share effective July 1, 2008.	$86,200,000	R	$271,200,000	R

	FY 07-08		FY 08-09	
92 **NC Kids' Care** Provides funding for a report on the most cost effective manner to implement an expansion of health care coverage to children between 200 percent and 300 percent of the federal poverty level. Provides funding in SFY 2008-09 for the implementation of the report, effective July 1, 2008.	$368,000	R	$7,000,000	R
(8.0) NC Health Choice				
93 **Health Choice** Provides funding for NC Health Choice. The funds allow enrollment to increase at a rate of 6 percent annually.	$7,507,992	R	$7,507,992	R
(9.0) Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing				
94 **Independent Living Program** Provides funding to the Division of Services for the Blind to add three additional counselors to serve consumers and one technology instructor to train consumers in the use of assistive technology and devices.	$482,121 4.00	R	$642,827 4.00	R
95 **Vocational Rehabilitation Program** Provides funding to the Division of Services for the Blind to increase the eligibility level for vocational rehabilitation to 125 percent of the federal poverty level from a fixed tiered amount.	$200,000	R	$200,000	R
96 **Medical Eye Care Program** Provides funding to the Division of Services for the Blind to increase the eligibility level to 125 percent of the federal poverty level from a fixed tiered amount.	$200,000	R	$200,000	R
97 **Accessible Electronic Information for Blind and Disabled Persons** Provides funding to continue accessible electronic information services for blind and disabled persons.	$75,000	NR		
98 **Deaf Regional Field Office Staff** Provides funding to the Division of Deaf and Hard of Hearing to create three positions to alleviate the need to contract for services and allow staff to better serve consumers. The positions are two Community Development Specialists and one Interpreter Services Consultant.	$52,773 3.00	R	$70,364 3.00	R

99 **Receipt-Supported Position - Services for the Deaf and Hard of Hearing**

Creates one new position in the Division of Services for the Deaf and Hard of Hearing to evaluate existing programs to determine if they are meeting the needs of North Carolina's deaf and hard of hearing population and to plan for future needs.

Human Services Planner/Evaluator III - $ 62,153

This position is 100 percent receipt-supported through the Wireless Connection Surcharge receipts.

(10.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

100 **MH/DD/SA Reductions** Reduces state appropriations for mental health, developmental disability, and substance abuse services based on historical availability of funds in the following account codes: domiciliary care (Fund 1290), BMC catchment reserves (Fund 1390), developmental disability funding for non-unit cost reimbursement (UCR) child reserves (Fund 1390), developmental disability funding for non-UCR other reserves (Fund 1390), training (Fund 1390), contract funds not allocated (Funds 1390 and 1490), and miscellaneous reserves. The reductions identified here should not decrease the amount of funds received by local management entities (LMEs).	($2,335,134)	R	($2,335,134)	R
101 **Atypical Antipsychotic Drugs** Realigns $975,499 in funding for the Office of Rural Health and Community Care (ORHCC) for their Medication Access and Review Program (MARP) to coordinate obtaining free prescription drugs. Also provides realigned funding for a reserve in the Division of Mental Health to cover outstanding drug claims for atypical antipsychotic drugs.	($975,499) $186,953	R NR	($975,499)	R
102 **Realignment of Mental Health Services Funds** Realigns existing funding for mental health services. Of the $15,028,638 in FY 2007-08 and $15,035,584 in FY 2008-09 reduced in this item, funding will be realigned as follows: + $13,737,856 in both years for crisis services, + $1,250,000 in both years for supported employment, and + $40,782 in FY 2007-08 and $47,728 in FY 2008-09 for mental health services for returning veterans.	($15,028,638)	R	($15,035,584)	R
103 **Crisis Services for MH/DD/SA** Provides funding for crisis services to be distributed to LMEs to continue to fund LMEs' crisis services plans completed in 2007. Funding for this item comes from realigned mental health services funding.	$13,737,856	R	$13,737,856	R

	FY 07-08		FY 08-09	
104 **Supported Employment for MH/DD/SA**	$2,500,000	R	$2,500,000	R
Provides funding for long-term supported employment for individuals with mental illness, developmental disabilities, and/or substance abuse addictions. The funds shall be distributed to LMEs such that each LME receives a percentage of the total allocation that is equal to that LME's percentage of the State's total population below the poverty level. Funding for this item comes from realigned mental health services funding ($1.25 million) and realigned developmental disability services funding ($1.25 million).				
105 **Hospital Utilization Pilots for MH/DD/SA**	$2,500,000	R	$5,000,000	R
Provides funding for psychiatric hospital utilization pilots.				
106 **Mental Health Services for Returning Vets**	$35,797	R	$47,728	R
Provides funding for one mental health program manager position to lead the Division's response to the mental health service needs of veterans and their families. Also provides funding for expansion of the NC Health Information Portal, education and social marketing to veterans and their families, and statewide training to providers regarding the mental health and substance abuse needs of this population. Of the funds in this item, $40,782 in FY 2007-08 and $47,728 in FY 2008-09 come from realigned mental health services funding.	$343,130 1.00	NR		
107 **Realignment of Developmental Disability Services Funds**	($5,750,000)	R	($5,750,000)	R
Realigns existing funding for developmental disability services. Of the $7,750,000 in FY 2007-08 and $5,750,000 in FY 2008-09 reduced in this item, funding will be realigned as follows:	($2,000,000)	NR		
+ $4,500,000 in both years for 300 additional CAP-MR/DD slots,				
+ $1,250,000 in both years for long-term supported employment, and				
+ $2,000,000 in nonrecurring funding in the first year for the development of model programs of early intervention for autism.				
108 **CAP-MR/DD Slots**				
Provides $4,500,000 in realigned developmental disability services funding for 300 additional Community Alternatives Program-Mental Retardation/Developmental Disability (CAP-MR/DD) slots.				
The funds for this item are located in the Division of Medical Assistance section of this report.				

	FY 07-08		FY 08-09	
109 **Early Intervention for Autism**				
Provides $2,000,000 in realigned developmental disability services funding for the development of three model programs of early intervention for autism across the State to be distributed as follows: + $1,250,000 to the model programs for service delivery. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMHDDSAS) may contract directly with service providers for service provision in these model programs. + $750,000 to the Autism Society of North Carolina for training and collaboration with model programs and community agencies to increase availability of early intervention for autism. DMHDDSAS shall work with the Autism Society of North Carolina on the development and support of these models. Early intervention with children with autism includes children from birth to age 10.	$2,000,000	NR		
110 **Realignment of Substance Abuse Services Funds**	($5,000,000)	R	($5,000,000)	R
Realigns funds for regionally-funded, locally-hosted substance abuse services.				
111 **Regionally-Purchased, Locally- Hosted Substance Abuse Programs**	$6,000,000	R	$6,000,000	R
Provides funding for regionally-purchased, locally-hosted substance abuse programs, including $5 million from realigned substance abuse services funding.				
112 **Delay Julian F. Keith ADATC Opening**				
Reduces state appropriations for the Julian F. Keith Alcohol and Drug Abuse Treatment Center (ADATC) based on delaying the opening of the new detoxification beds from May 2008 to FY 2008-09.	($3,753,806)	NR		
113 **Closure of Dorothea Dix Hospital**	($31,773,078)	R	($52,290,268)	R
Reduces the budget for Dorothea Dix Hospital to account for its anticipated closure in late Fall 2007. In addition to the reduced state appropriation, an additional $10,357,840 in FY 2007-08 and $17,990,270 in FY 2008-09 in receipts will be reduced.			1104.38	
114 **Closure of John Umstead Hospital**	($35,347,782)	R	($60,677,194)	R
Reduces the budget of John Umstead Hospital in anticipation of its closure in late Fall 2007 and the transfer of Whitaker School and R.J. Blackley Alcohol and Drug Abuse Treatment Center (ADATC) at that time. In addition to the reduced state appropriation, an additional $10,131,962 in FY 2007-08 and $17,312,369 in FY 2008-09 in receipts will be reduced.			1260.18	

	FY 07-08		FY 08-09	
115 **Opening of Central Regional Hospital** Provides funding for the operation of the Central Regional Hospital, scheduled to open in late Fall 2007. In addition to the state appropriation, an additional $20,489,802 in FY 2007-08 and $33,857,431 in FY 2008-09 in receipts will be transferred for the operation of this hospital.	$62,402,431	R	$102,828,228 2144.77	R
116 **Forensic Unit Beds to Broughton Hospital** Provides funding for the transfer of half of the Forensic Unit from Dorothea Dix Hospital to Broughton Hospital.	$4,718,429	R	$5,750,000 103.00	R
117 **Local Administration for MH/DD/SA** Provides funding for the local management entity (LME) Administrative Cost Model. $4,389,234 of the funding in FY 2008-09 is from the savings generated by the opening of Central Regional Hospital and the closure of Dorothea Dix and John Umstead Hospitals.	$500,000	R	$4,889,234	R
118 **Treatment Alternatives for Safer Communities (TASC)** Provides funding for local management entities to increase the number of TASC case managers and substance abuse services for adult drug offenders.	$2,000,000	R	$2,000,000	R
119 **Treatment Court Programs** Provides funding for services for existing pre- and post-plea mental health courts, DWI courts, and adult and family drug treatment courts for adult offenders.	$2,000,000	R	$2,000,000	R
120 **Institute of Medicine Studies** Provides funding for the Institute of Medicine to undertake additional studies annually at the request of the North Carolina General Assembly, including a specific study on substance abuse services. Also provides funding to support a rapid-response capacity to analyze secondary data sources on health or provide other health-related data to the North Carolina General Assembly and to State and local government agencies. The funds for this item are located in the Office of the Secretary section of this report.				
121 **Crisis Intervention Teams** Provides funding to be used by local management entities (LMEs) to develop Crisis Intervention Teams statewide. Also provides funding for the Division of MH/DD/SAS to develop the capacity to provide statewide training.	$100,000	R	$100,000	R

	FY 07-08		FY 08-09	
122 **Housing Trust Fund - Housing for People with Disabilities**				
Provides $7,500,000 in non-recurring funding to the North Carolina Housing Trust Fund for the financing of additional independent- and supportive-living apartments for people with disabilities. The apartments shall be affordable to those with incomes at the Supplemental Security Income (SSI) level.				
The funds for this item are located in the Housing Finance Agency Section of this report.				
123 **Operating Cost Subsidy - Housing for People with Disabilities**	$3,500,000	R	$4,500,000	R
Provides funding for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities. The apartments shall be affordable to those with incomes at the SSI level.				
124 **Central and Field Office Staff**	$267,883	R	$357,177	R
Provides funding for increased staff to enhance the Division's oversight, management, and delivery of community-based services. These positions include three Mental Health Program Managers (LME Team), two Mental Health Program Coordinators (Accountability), and two Business Officers (Budget/Finance).	7.00		7.00	
125 **NC Special Care Center Staff**	$121,988	R	$724,065	R
Provides funding to increase staffing ratios to meet the treatment and safety needs of clients and staff. The additional positions will increase the staffing ratio from 1.5 staff per patient to 2.9 staff per patient in FY 2008-09.	25.00		100.00	
126 **Consumer Advocacy Nonprofit**				
Provides funding to the North Carolina Council of Community Programs, Inc. (NCCCP). These funds shall be allocated by NCCCP for start up costs relating to the establishment of a statewide consumer support and networking organization. The purpose of the organization is to promote the role of consumers of mental health, developmental disabilities, and substance abuse services in contributing to the design, function, and oversight of the Mental Health, Developmental Disabilities, and Substance Abuse Services System.	$60,000	NR		
127 **CFAC Training**				
Provides funds for Consumer and Family Advisory Council Training (CFAC).	$100,000	NR		
(11.0) Division of Health Service Regulation				
128 **Under-Budgeted Receipts**	($500,000)	R	($500,000)	R
Increases budgeted receipts from licensure fees to reflect actual collections and reduce State appropriations.				

	FY 07-08		FY 08-09	
129 **Certificate of Need (CON) Program**	$852,687	R	$852,687	R
Provides funding for nine new positions for the Certificate of Need (CON) Program to meet the increased volume of applications, appeals, and determinations related to the development of health care facilities and services: four Project Analysts, two Team Leaders, two Planning Analysts, and one Office Assistant. The funding for these positions will be offset by increased fees that will be deposited in the General Fund as non-tax revenue.	$28,418 9.00	NR	 9.00	
130 **Construction Program**	$789,720	R	$789,720	R
Provides funding for eight new positions for the Construction program to provide a more timely review of construction plans for health care and local confinement facilities: one Facility Architect II, two Facility Architectural Supervisor Is, two Building Systems Engineer IIIs, one Building System Engineer II, one Building System Engineer I, and one Processing Assistant IV. The funding for these positions will be offset by increased fees that will be deposited in the General Fund as non-tax revenue.	$34,676 8.00	NR	 8.00	
131 **Regulatory and Complaint Staff**	$216,665	R	$288,887	R
Provides funding to increase staff in the areas of acute health care facilities' regulation and complaint investigations: two Correction Institutional Compliance Inspectors and one Facility Survey Consultant I.	3.00		3.00	
132 **Health Care Personnel Registry and Rating System for Adult Care Homes**	$583,000	R	$803,000	R
Provides funding for fourteen positions and related costs to expand the Health Care Personnel Registry to all unlicensed staff of a health care facility who have direct access to residents, clients, or their property and to implement a Rating System for adult care homes: three Facility Survey Consultant IIs and nine Facility Survey Consultant Is, one Processing Assistant V and one Processing Assistant IV.	$40,274 13.00	NR	$2,750 13.00	NR
133 **Technical Assistance for Adult Care Homes**				
Provides funding in FY 2008-09 to assist adult care homes with the implementation of the adult care home rated certification program.			$500,000	NR
134 **Poison Control Center**				
Provides funding to increase the State contract with the Poison Control Center operated by the Carolinas Medical System.	$200,000	NR		

	FY 07-08		FY 08-09	
135 **Receipt-Supported Positions - EMS Program**				
Creates one and one-half positions for the Office of Emergency Medical Services to improve EMS service delivery, personnel performance and patient care in the 100 EMS Systems in North Carolina. Administrative Officer II - $ 34,209 Administrative Officer III - $ 67,652 These positions are 100 percent receipt-supported through a grant from The Duke Endowment.				
(12.0) Division of Vocational Rehabilitation				
136 **Federal Indirect Cost Receipts**				
Requires the Division of Vocational Rehabilitation to budget federal indirect cost receipts and reduce state appropriations.	($162,000)	NR		
137 **Assistive Technology**	$305,956	R	$305,956	R
Provides funding for three assistive technology positions to decrease the waiting period for clients to receive services and funding for equipment for consumers for demonstration, training, and education purposes.	$36,316 3.00	NR	 3.00	
138 **Independent Living Rehabilitation Program**	$500,000	R	$500,000	R
Provides funding to increase the eligibility level to 125 percent of the federal poverty level from a fixed tiered amount.				
Total Legislative Changes	**$65,117,974**	**R**	**$264,893,872**	**R**
	$33,899,452	**NR**	**$14,903,389**	**NR**
Total Position Changes	123.00		75.21	
Revised Budget	**$4,631,101,397**		**$5,100,200,353**	

NATURAL & ECONOMIC RESOURCES Section H

Agriculture and Consumer Services

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$60,254,939**		**$60,434,179**	
Legislative Changes				
Department-Wide				
1 **Vacant Positions** Eliminates three (3.0) positions that were vacant prior to March 31, 2006.	($123,178) -3.00	R	($123,178) -3.00	R
Food and Drug Protection				
2 **Food Regulatory Laboratory Equipment** Provides funding to purchase laboratory equipment to enhance the Department's ability to manage critical food safety and food security issues.	$200,000	R	$200,000	R
Marketing				
3 **Marketing Funds** Provides additional funding for agriculture marketing initiatives in the State, including programs to assist small, low-income North Carolina farmers who market their products directly to customers to enroll in the United States Department of Agriculture Food and Nutrition Service Food Stamp Program at the farmers markets. $50,000 NR in FY 2007-08 shall be used for the promotion of agriculture festivals in small towns with populations less than 5,000. The amount per festival shall not exceed $10,000.	$250,000	NR		
Meat and Poultry Inspection				
4 **Cover Federal Funding Shortfall** Provides funding to cover the loss of federal funding from the USDA, Food Safety and Inspection Services.	$269,000	NR		
5 **Replace Field Automation Information Laptop Computers** Provides additional funds to replace 52 laptop computers used in the Federal "FAIM" program for meat inspectors. These funds will be matched 50% by the federal government.	$50,000	NR		
Property and Construction				
6 **Real Property Agent Position** Establishes one full-time position in the Property and Construction Division to respond to the increased caseload of capital projects, real property and engineering consulting programs.	$65,000 1.00	R	$65,000 1.00	R

	FY 07-08		FY 08-09	
Reserves and Transfers				
7 **Agricultural Development and Farmland Preservation (NC ADFP) Trust Fund**				
Provides funding for the NC ADFP Trust Fund to prevent the continued loss of our State's farmlands. Also, these funds will assist in the protection of our natural resources, wildlife habitat, and water resources.	$8,000,000	NR		
8 **Implement North Carolina's Strategic Plan for Biofuels Leadership**				
Establishes and funds the Biofuels Center of North Carolina, which will assist universities, companies, and agencies to implement the legislatively mandated (S.L. 2006-206) Strategic Plan for Biofuels Leadership; encourage the growth and production of biomass (organic raw materials) in rural areas; encourage and fund research, identify new crops, and conduct growth trials; seek supplemental federal funding for research, development, and facilities; and ensure unified state approaches to incentives, agricultural and manufacturing production, job creation, distribution, economic analyses, public education, and workforce preparation.	$5,000,000	NR		
Standards				
9 **Receipt Supported Position - LP-Gas Site Inspector**				
Allows for the establishment of one (1.0) full-time LP-Gas Inspector position from the Highway Fund. Also provides NR receipts for the purchase of equipment for this position.				
LP-Gas Inspector $41,014 Equipment $26,056				
Veterinary Services				
10 **Veterinary Diagnostic Lab Support**	$123,000	R	$123,000	R
Provides funding for one (1.0) additional pathologist position for the Veterinary Services Division. This position will serve as the Head of the Pathology Section to coordinate the activities of the four current pathologists.	1.00		1.00	
11 **Replace Autoclaves - Emergency Preparedness**				
Provides funding to replace three existing autoclaves and to install one new one at the Rollins Diagnostic Laboratory.	$292,940	NR		
Total Legislative Changes	**$264,822**	R	**$264,822**	R
	$13,861,940	NR		
Total Position Changes	-1.00		-1.00	
Revised Budget	**$74,381,701**		**$60,699,001**	

Labor

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$16,209,473**		**$16,209,666**	
Legislative Changes				
Occupational Safety and Health				
***12* Agricultural Safety Officers** Provides funds for two additional agricultural safety officers. These officers will conduct migrant housing inspections, search for unregistered migrant housing, and train farmers and farmworkers on safety issues.	$124,748 2.00	R	$124,748 2.00	R
***13* Operational Funding** Provides funds for various operating line items.	$200,000	R	$200,000	R
Standards & Inspections				
***14* Wage and Hour Investigator Position** Provides funds for one additional wage and hour investigator position.	$60,537 1.00	R	$60,537 1.00	R
Total Legislative Changes	**$385,285**	R	**$385,285**	R
Total Position Changes	3.00		3.00	
Revised Budget	**$16,594,758**		**$16,594,951**	

Environment & Natural Resources

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$189,617,004**		**$191,595,711**	
Legislative Changes				
(1.0) Department-Wide				
15 **Vacant Positions**	($912,083)	R	($912,083)	R
Eliminates 19 positions in various divisions that were vacant prior to March 31, 2006.	-19.00		-19.00	
(1.0) Office of Conservation & Community Affairs				
16 **River Herring Research**				
Provides funding for a variety of river herring research projects, including: evaluating techniques that enhance native spawning to accelerate restoration; performing an independent review of current stock status, data deficiencies, and research needs; reviewing the effects of predation by striped bass and other species; identifying priority habitat restoration sites; and implementing restorative measures.	$100,000	NR		
(2.0) Center for Geographic Information & Analysis				
17 **NC OneMap Application Framework**	$89,185	R	$89,185	R
Provides funding for a Business Tech Applications Analyst position to oversee the operations of NC OneMap.	$10,000	NR		
	1.00		1.00	
(2.0) Division of Air Quality				
18 **School Bus Diesel Emissions Reduction Account**				
If HB 1921 is enacted, provides funding for grants to retrofit existing school bus engines to reduce diesel emissions.	$500,000	NR		
(2.0) Environmental Health				
19 **Radiation Protection Receipt-supported Positions**				
Authorizes the Division of Environmental Health to establish 4.5 new positions, in anticipation of fee increases in 15A NCAC 11.1106 "Radioactive Materials and Accelerator Fee Amounts" currently in the rulemaking process.				
20 **Private Well Water Safety Program**				
Provides additional funding for incentive grants to counties as they adopt local programs to enforce statewide private well construction standards. New private well construction standards will go into effect July 1, 2008.	$300,000	NR		

	FY 07-08		FY 08-09	
21 **Emergency Drinking Water Fund**				
Provides funds to notify private well users of contamination, to cover the costs of testing private wells for contamination, and to pay for alternative drinking water supplies.	$615,000	NR		
(2.0) Land Resources				
22 **Landslide Hazard Mapping Program**	$184,911	R	$184,911	R
Provides funds to create a permanent Landslide Mapping/Geohazards Program within the North Carolina Geological Survey section. The existing three-year program was created through the Hurricane Recovery Act of 2005 and funding will expire in FY 2008-09. Funds will be used to fund shift three positions to General Fund support from special Hurricane Recovery Act funds.	3.00		3.00	
Geologist II 2.0 Computer Consultant II 1.0				
23 **Sediment and Erosion Control**				
Increases fees charged for sediment and erosion control plan reviews. Current fees are $50 per acre of disturbed land and will increase to $65/acre. Increased fee revenue will be used to support seven new positions to allow for more timely inspections.				
Environmental Specialist III 7.0				
Total Receipts Required $472,500 Total New Receipt Revenue $472,500				
24 **Mining Compliance and Technical Assistance**				
Increases fees charged for mining permits. Increased fee revenue will be used to support five new positions to improve compliance monitoring and provide technical assistance to the mining industry. With the addition of these five new positions, the Department will place at least one mining specialist in each of the Department's seven regional offices.				
Environmental Tech V 5.0				
Total Receipts Required $286,088 Total New Receipt Revenue $286,088				
(2.0) Pollution Prevention & Enviro. Assistance				
25 **Continuation Review of the Environmental Stewardship Initiative**	($276,624)	R	($276,624)	R
Changes the funding for the Environmental Stewardship Initiative to non-recurring. This program is subject to continuation review.	$276,624	NR		

	FY 07-08		FY 08-09	
(2.0) Waste Management				
26 **Groundwater Remediation Program**	$160,835	R	$160,835	R
Provides funding to establish two new positions to focus on cleaning up existing contaminated sites across the State, many of which have an impact on groundwater quality.	$11,472	NR		
	2.00		2.00	
Hydrogeologist II 1.0 Environmental Engineer II 1.0				
27 **Hazardous Waste Facilities and Management**	$125,000	R	$125,000	R
Provides funds for two positions to work on hazardous waste issues. The Environmental Chemist II position will promote improved environmental compliance, sustainable hazardous waste management practices, and effective hazardous waste/emergency response cleanups. The Administrative Officer II position will oversee the administration of several national computerized databases on hazardous waste activities, the public document file room, and the administration of annual fee invoicing, payment, and collection activities.	2.00		2.00	
28 **Geographic Information System Development**	$75,266	R	$75,266	R
Funds are provided for one new position to develop and implement GIS databases to map groundwater contamination and other polluted sites.	$3,989	NR		
	1.00		1.00	
Business and Technology Applications Analyst 1.0				
(2.0) Water Quality				
29 **Water Quality Fees**	($202,142)	R	($202,142)	R
Increases existing water quality fees by 20%. New fee revenue will fund nine new positions and allow the Division to take a $202,142 General Fund reduction. Three positions will work on the BasinWide Information Management System (BIMS), and three positions will provide technical assistance to professional wastewater treatment plant operators. Three positions will work to improve groundwater classifications and standards.				
Business & Tech. Application Specialist 1.0 Business & Tech. Application Analyst 2.0 Wastewater Treatment Consultant 2.0 Environmental Engineer II 1.0 Industrial Hygiene Consultant 1.0 Environmental Chemist II 1.0 Environmental Specialist III 1.0				
Total Receipts Required $795,803 Total New Receipt Revenue $997,945				

	FY 07-08		FY 08-09	
30 **Water Quality Monitoring on Ferry Vessels**				
Provides funds for the Ferrymon Program which evaluates water quality in the Pamlico Sound and its tributary rivers using equipment attached to three ferry vessels.	$300,000	NR		
(2.0) Water Resources				
31 **River Basin Water Supply Planning**	$95,000	R	$95,000	R
Provides funding for one (1.0) new position and funding for resources needed to complete the modeling and data management for river basin water supply plans.	$5,000 1.00	NR	1.00	
32 **Sustainable Management of Groundwater Resources**	$95,490	R	$95,490	R
Provides funds for one new position to provide technical assistance to groundwater users to find sustainable and cost effective groundwater sources. Also provides funds to improve the monitoring well network.	$4,510 1.00	NR	1.00	
Hydrogeologist I 1.0				
(3.0) Aquariums				
33 **Continue Increased Operating Support**	$2,500,000	R	$2,500,000	R
Continues to provide increased General Fund support for operating expenses to replace admission receipts within the Division's budget.				
(3.0) Forest Resources				
34 **Continuation Budget Increase for On-Call Pay**	($469,883)	R	($479,558)	R
Reduces the continuation budget increase for on-call pay within the Division's budget. On-call pay compensation has previously been paid from lapsed salaries.				
35 **Continuation Budget - 3rd Party Financing of Equipment**	($842,426)	R	($842,426)	R
Reduces the recommended increase for 3rd party financing of equipment for the Forest Resources Division. This recommendation still allows for a $992,764 increase in FY 2008-09.				
(3.0) Marine Fisheries				
36 **Stock Assessment & River Herring Management Program**	$148,521	R	$148,521	R
Establishes three positions, including one Stock Assessment Scientist, to implement the Albemarle Sound River Herring Management Plan. An additional $99,939 R and $6,010 NR will be funded by Coastal Recreational Fishing License (CRFL) receipts.	$103,679 3.00	NR	3.00	
Stock Assessment Scientist 1.0 M.F. Biologist I 1.0 M.F. Technician II 1.0				

	FY 07-08		FY 08-09	
(3.0) Parks and Recreation				
37 **Reduce Continuation Increase** Reduces the continuation budget increase allowed for new and existing park expansion. The continuation item provides operating money for expansion at 17 different parks over the biennium. With this reduction, the Division still receives a $1,105,885 increase in FY 2007-08 and a $2,660,473 increase in FY 2008-09. This reduction shall not delay the scheduled openings of Hickory Nut Gorge and Carver's Creek State Parks.	($300,000)	R	($300,000)	R
(3.0) Soil & Water Conservation				
38 **Conservation Reserve Enhancement Program (CREP)** Provides funding to support the expansion of CREP into two additional river basins in need of riparian buffers and restored wetlands. This funding is to address Phase II of CREP expansion, to include the Roanoke and Pasquotank River Basins. In addition, provides funding to establish and support one Land Surveyor position and one Paralegal II position to implement the amended CREP agreement in the Neuse, Tar-Pamlico, Chowan and Jordan Lake watersheds.	$275,000 2.00	R	$275,000 2.00	R
39 **Poultry Waste Management** Provides funds to the Soil and Water Conservation Division to continue the funding for best management practices for poultry waste management and for new technologies, including the disposal of poultry mortalities. Priority shall be given to small producers who have a limited ability to pay for or finance an innovative poultry waste management system through private or cooperative credit at reasonable rates and terms.	$250,000	NR		
40 **Community Conservation Assistance Program** Provides funds to the Division to implement the Community Conservation Assistance Program, including establishing one (1.0) Environmental Specialist III position.	$200,000 1.00	R	$200,000 1.00	R
41 **Swine Waste Technology Initiatives Legislation** If swine waste legislation is enacted, provides funding for the implementation of swine waste technology initiatives.	$2,000,000	NR		
(4.0) Reserves and Transfers				
42 **Clean Water State Revolving Fund Match** Provides funds to meet the 20% State match requirement for drawing down the maximum available federal funds for the Wastewater Treatment Plant (Clean Water) State Revolving Fund.	$3,863,277	NR		
43 **Drinking Water State Revolving Fund Match** Provides funds to meet the 20% State match requirement for drawing down the maximum available federal funds for the Drinking Water State Revolving Fund.	$5,538,980	NR		

	FY 07-08		FY 08-09	
44 **Grassroots Science Program Funding** Provides increased funding to the Grassroots Science Program in order to hold all museums at the same allocation level as FY 2006-07, provides increased support and adds three new museums: Core Sound Waterfowl Museum, Pisgah Astronomical Research Institute, and, Sylvan Heights Waterfowl Park and Eco-Center.	$283,577 $425,000	R NR	$283,577	R
45 **Land for Tomorrow and Waterfront Access** Authorizes the issuance of $120 million in certificates of participation for the acquisition of State park lands, conservation areas, and land to promote waterfront access. The debt is to be serviced through revenues deposited into the Park and Recreation and Natural Heritage Trust Funds.				
Total Legislative Changes	**$1,229,627** **$14,307,531**	R NR	**$1,219,952**	R
Total Position Changes	-2.00		-2.00	
Revised Budget	**$205,154,162**		**$192,815,663**	

DENR-Clean Water Management Trust Fund

	GENERAL FUND	
	FY 07-08	FY 08-09
Adjusted Continuation Budget	$100,000,000	$100,000,000
Legislative Changes		
Clean Water Management Trust Fund		
46 **Statutory Appropriation Pursuant to G.S. 113A-253.1**		
No Legislative Adjustments.		
Total Legislative Changes		
Total Position Changes		
Revised Budget	$100,000,000	$100,000,000

Commerce

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$41,365,875**		**$41,406,272**	
Legislative Changes				
A. Business and Industry				
47 **Northeast Regional Office Economic Developer**	$92,447	R	$92,447	R
Provides funds for an Economic Developer position at the Northeast Regional Office. Formerly, this position was a contract position shared with the Northeast Regional Partnership. The other 8 Regional Offices have Economic Developers.	1.00		1.00	
B. Policy, Research, & Strategic Planning				
48 **EDIS - OneMap Integration**	$10,000	R	$10,000	R
Provides funds for the redesign of the NC Buildings and Sites system and for the integration of EDIS with NC OneMap.	$290,000	NR		
C. Administrative Programs				
49 **Non-profit Monitoring Position**	$70,409	R	$70,409	R
Provides funds for an additional position to assist in the monitoring of all non-State entities receiving funds through the Department of Commerce.	1.00		1.00	
D. Division of Community Assistance				
50 **Transfer Councils of Government Funding to State-Aid**	($832,150)	R	($832,150)	R
Transfers pass-through funds for the Councils of Government to the Commerce - State Aid fund code. Most recurring funding for non-profits that passes through Commerce is in the State Aid fund code.				
51 **Community Development Planner**	$65,935	R	$65,935	R
Provides funds for an additional Community Development Planner for the Small Town Main Street Program in the western part of the State.	1.00		1.00	
E. Tourism, Film, and Sports Development				
52 **Travel and Tourism Funds**				
Provides additional funds for the Division of Tourism, Film, and Sports Development.	$750,000	NR		
53 **Blue Ridge National Heritage Funds**				
Provides funds for staffing, regional brand market initiatives, and visitor services technology for the new Blue Ridge Parkway Destination Center.	$450,000	NR		

	FY 07-08		FY 08-09	
54 **Film Commission Funds** Provides $50,000 to each of the 6 regional film commissions for FY 07-08.	$300,000	NR		
55 **Viticulture Promotion** Provides funding to the NC Wine and Grape Growers Council to promote the viticulture industry in North Carolina. An additional $500,000 has been appropriated in the Community College budget for the Surry Community College Viticulture Program, providing a total of $1 million for the advancement of the viticulture industry in the State.	$500,000	NR		
56 **Motorsports Funds** Provides funds for marketing and promotion of the motorsports industry in the State.	$100,000	NR		
F. Executive Aircraft				
57 **Increase Aircraft Rates** Increases the rates charged for the use of the Department's aircraft as follows: Citation Jet Business & Industry Rate: $455/hour Other State Officials: $770/hour Sikorsky Helicopter Business & Industry Rate: $715/hour Other State Officials: $770/hour King Air Business & Industry Rate: $325/hour Other State Officials: $560/hour This is the first rate increase in at least seven years.	($100,000)	R	($100,000)	R
58 **Eliminate Continuation Budget Increase for New Aircraft** Eliminates new funding provided in the continuation budget for the purchase of new aircraft. The Division can use existing funds to pay off the remaining loans on two aircraft, and can delay the purchase of a replacement plane for the King Air. The replacement plane can be purchased with funds available in FY 2008-09.	($423,572)	R	($423,572)	R
G. Marketing				
59 **Furniture Market Funds** Provides funds to the High Point International Home Furnishings Market Authority Corporation to promote the International Home Furnishings Market.	$1,000,000	NR		

	FY 07-08		FY 08-09	
H. Commerce Finance				
60 **NC Green Business Fund**				
Establishes the NC Green Business Fund to provide grants to private businesses with less than 100 employees, non-profit organizations, and State agencies to encourage the growth of a green economy in the State. Grants will be focused on three priority areas: 1. To encourage the development of the biofuels industry; 2. To foster the development of the green building industry; and, 3. To leverage investments in additional clean technology and renewable energy products and businesses.	$1,000,000	NR		
61 **One North Carolina Fund**				
Appropriates funds for One North Carolina to offer economic development incentive grants to businesses creating new jobs in the State for infrastructure, repair and renovation, and machine or equipment purchases.	$14,000,000	NR		
62 **One North Carolina Small Business Fund**				
Appropriates funds for the Department of Commerce to provide grants under the North Carolina SBIR/STTR Incentive program.	$4,830,000	NR		
63 **Industrial Development Fund Cash Balance**				
Reduces the Industrial Development Fund cash balance.	($169,789)	NR		
Total Legislative Changes	**($1,116,931)**	R	**($1,116,931)**	R
	$23,050,211	NR		
Total Position Changes	3.00		3.00	
Revised Budget	**$63,299,155**		**$40,289,341**	

Commerce - State Aid

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$12,268,085		$12,268,085	
Legislative Changes				
64 **Regional Economic Development Commissions**			($6,775,000)	R
Reduces funding for the economic development partnerships by 5% and makes it non-recurring in FY 2008-09. There is no change to the partnerships' appropriation in FY 2007-08.			$6,436,250	NR
65 **Transfer Council of Government Funds to State Aid**	$832,150	R	$832,150	R
Transfers the pass-through appropriation for the Councils of Government from the Commerce budget to the State Aid budget. An additional $10,000 shall be distributed to each Council of Government in FY 2007-08 to assist local governments on a regional basis in the areas of economic development, community development, infrastructure, and other significant local needs.	$170,000	NR		
66 **NC Center for Automotive Research (NCCAR)**				
Provides funds for the operation and development of the NC Center for Automotive Research (formerly know as the Advanced Vehicle Research Center or AVRC).	$3,500,000	NR		
67 **Johnson & Wales University**				
Provides funds to Johnson and Wales University in Charlotte, a private university that specializes in the culinary and hospitality industries.	$2,000,000	NR		
68 **Defense and Security Technology Accelerator**				
Provides funds for the Partnership for Defense Innovation to support the Defense and Security Technology Accelerator, a business incubator focusing on economic development opportunities in industries relating to homeland security and national defense.	$1,500,000	NR		
69 **Kerr-Tar Economic Development Corporation Funds**				
Appropriates funds to the Kerr-Tar Regional Economic Development Corporation for the primary hub sites designed by the University of North Carolina at Chapel Hill to support economic development in Franklin, Granville, Vance, and Warren Counties. $1.925 million of these funds shall be used only by the primary project sites. The remaining $250,000 shall be used for a pilot project for affordable housing in Vance County.	$2,175,000	NR		
70 **Coalition of Farm & Rural Families**				
Appropriates funds for the Coalition of Farm and Rural Families.	$300,000	NR		

	FY 07-08		FY 08-09	
71 **Land Loss Prevention** Provides additional funding for the purpose of continuing expansion of legal representation to financially distressed small farmers and to rural landowners in underserved tobacco dependent communities.	$350,000	R	$350,000	R
72 **NC Community Development Initiative (NCCDI)** Provides funding to NCCDI for the purpose of providing grants, loans, technical assistance, and administration dedicated statewide for community economic development projects.	$3,000,000	R	$3,000,000	R
73 **NC Association of Community Development Corporations (NCACDC)** Provides funding to the NCACDC for the purpose of strengthening the State's economy through community-based development activities, including enhancing the work of community development corporations in building prosperous communities.	$750,000	R	$750,000	R
74 **NC Institute of Minority Economic Development (NCIMED)** Provides increased funding to NCIMED for technical assistance, training, loans, grants and administration in economic development projects and statewide initiatives. $40,000 in each fiscal year shall be used for the creation of a minority entrepreneurial development program in collaboration with regional educational institutions.	$1,500,000	R	$1,500,000	R
75 **NC Minority Support Center (NCMSC)** Provides increased funding to NCMSC for operating expenses, programs, technical assistance and financial support for products and services to credit unions.	$3,000,000	R	$3,000,000	R
76 **e-NC Authority** Provides funds to the e-NC Authority to increase the availability of internet connectivity in underserved areas of the State, to provide additional funding for general operations, and to expand the funding for existing and new e-NC Business and Technology Telecenters. $1 million shall be used to fund the PEG Channel Fund, to be distributed per G.S. 66-359.	$4,000,000	NR		
Total Legislative Changes	**$9,432,150**	**R**	**$2,657,150**	**R**
	$13,645,000	**NR**	**$6,436,250**	**NR**
Total Position Changes				
Revised Budget	**$35,345,235**		**$21,361,485**	

N.C. Biotechnology Center

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$12,583,395**		**$12,583,395**	
Legislative Changes				
77 **Regional Centers of Innovation** Provides funds to the Biotechnology Center to create regional centers of innovation. The Centers will be formed and operated by partnerships of local educational and research institutions, businesses, governments, and non-profits and will focus on research and technology transfer in biotechnology-related fields such as marine biotechnology, nano-biotechnology, natural biotechnology & integrative medicine, and biofuels. Funds will be used to support research necessary to make scientific discoveries useful in the creation of new products and services, to assist businesses with product development and initial production, regulatory approvals, marketing and distribution, and for administrative support of the Centers.	$3,000,000	R	$3,000,000	R
Total Legislative Changes	**$3,000,000**	R	**$3,000,000**	R
Total Position Changes				
Revised Budget	**$15,583,395**		**$15,583,395**	

Rural Economic Development Center

	GENERAL FUND		
	FY 07-08		FY 08-09
Adjusted Continuation Budget	$24,302,607		$24,302,607
Legislative Changes			
78 **Expand Economic Infrastructure Fund** Provides additional funds to the Rural Center's Economic Infrastructure Fund to establish and implement the Rural Economic Transition Program. This program shall provide grants and equity investments in severely distressed rural areas.	$19,000,000	NR	
79 **Water and Wastewater Grants** Appropriates additional funds to the Rural Center to provide grants to local units of government for the purpose of addressing critical needs related to supplying drinking water and wastewater treatment.	$100,000,000	NR	
80 **Equine Industry Study** Provides funds to be allocated to the Agricultural Advancement Consortium for the purpose of assessing the numbers, composition, and value of the equine industry in North Carolina; analyzing the direct and indirect impact of the industry on the State's economy; and developing a comprehensive plan to maximize the economic opportunities presented by the industry.	$500,000	NR	
Total Legislative Changes	**$119,500,000**	**NR**	
Total Position Changes			
Revised Budget	**$143,802,607**		**$24,302,607**

JUSTICE
&
PUBLIC SAFETY
Section I

Judicial

	GENERAL FUND	
	FY 07-08	FY 08-09
Adjusted Continuation Budget	**$407,836,051**	**$413,500,354**

Legislative Changes

System Wide

1 Divide Judicial District 22 — $647,755 R; $74,706 NR; 14.00

Effective January 1, 2009, the current Superior Court, District Court, and Prosecutorial Judicial Districts 22 will be divided into District 22A, Alexander and Iredell Counties, and District 22B, Davie and Davidson Counties. Funding is provided for the following new positions, effective January 1, 2009, needed to support the new judicial districts:

Position	# Positions
New Superior Court District:	
Trial Court Coordinator	1.0
Superior Court Judge	1.0
Court Reporter	1.0
Deputy Clerk	1.0
New Prosecutorial District:	
District Attorney	1.0
District Attorney Admin. Asst. II	1.0
Asst District Attorney	2.0
DA Investigator	1.0
New District Court:	
District Court Judge	2.0
Judicial Assistant	1.0
Deputy Clerk	2.0

In addition, funds are provided to upgrade an existing Superior Court Judge position to Senior Resident Superior Court Judge and an existing District Court Judge position to Chief District Court Judge.

Administration

2 Technology Initiatives — $7,914,759 R; $1,927,647 NR; 78.00 — $7,919,361 R; 78.00

Funding is provided to continue technology modernization and infrastructure projects currently under development. The non-recurring funds will be transferred to the Court Information Technology Fund and will not revert pursuant to G.S. 7A-343.2

3 Financial Services Positions — $185,346 R; $14,498 NR; 2.00 — $185,902 R; 2.00

Funding is provided for two (2) Internal Auditor II/Financial Management Analyst positions to perform financial and system-wide audits.

	FY 07-08		FY 08-09	
4 Research and Planning Positions	$189,541	R	$189,659	R
Funding is provided for two (2) positions to conduct research, policy, and statistical analyses, including that required for legislative fiscal note estimates and reporting.	$18,696	NR		
	2.00		2.00	
5 Increase Emergency Judge Funding	$558,935	R	$558,935	R
Funds are provided to increase the daily rate paid to emergency judges. The rate will increase from $300/day to $400/day. The rate has not changed since 1998.				
Appellate				
6 New Court of Appeals Positions	$117,356	R	$120,349	R
Funding is provided for one Staff Attorney I position and one Appellate Clerk I position to address increases in Appellate workload.	$14,357	NR		
	2.00		2.00	
7 Appellate Judge Mileage Reimbursement	$55,000	R	$55,000	R
Funds are provided for weekly travel for all appellate judges who reside 50 miles or more from Raleigh. The mileage reimbursement will be paid for each week that the judge travels from home to Raleigh for business of the court.				
8 Expansion of Judicial Standards Commission	$178,105	R	$178,105	R
Governor's Recommendation: funding is provided for two new positions for the Judicial Standards Commission: one Staff Attorney I and one Investigator. These positions are needed to support the recent expansion of the commission's membership and to address an increase in the number of complaints investigated by the commission.	$15,261	NR		
	2.00		2.00	
District Attorney Offices				
9 New Prosecutors and Support Staff	$3,939,523	R	$10,281,769	R
Funding is provided for new Victim Witness/Legal Assistant (VWLA), Assistant District Attorney (ADA), and District Attorney (DA) Investigator positions. The effective date of the positions are as follows:	$242,841	NR	$238,884	NR
	77.00		152.00	

Position	# Pos	Effective Date
Victim Witness Legal Asst	40	10/01/07
Assistant District Attorney	30	10/01/07
DA Investigator	7	10/01/07
Victim Witness Legal Asst	40	07/01/08
Assistant District Attorney	28	07/01/08
DA Investigator	7	07/01/08

With the exception of the 28 ADA positions effective on July 1, 2008, all of the positions will be allocated by the Administrative Office of the Courts. The 28 ADA positions which become effective on July 1, 2008 shall be allocated by the General Assembly in the 2008 Session. (HB 1473, Sec. 14.14)

	FY 07-08		FY 08-09	
10 **Receipt-Supported Positions - Guilford**				
The Guilford County DA's Office may establish eight (8) time-limited positions using funds provided by Guilford County: 1.0 Mental Health Court Coordinator II 1.0 Mental Health Court Case Coordinator 6.0 Pretrial Screener I				
11 **Receipt-Supported Position - Forsyth County**				
The Forsyth County DA's Office may establish one time-limited Gang Intervention & Resource Specialist position using federal grant funds from the Governor's Crime Commission.				
12 **Continuation Review-DA Conference Funds**	($401,289)	R	($401,289)	R
Funding is provided for the District Attorneys Conference for FY 2007-08 only. Restoration of FY 2008-09 funds is subject to findings of the Continuation Review.	$401,289	NR		
			-5.00	
Equipment and Other Reserves				
13 **Equipment for New Courthouse**	$4,300	R	$4,300	R
Governor's Recommendation: funding is provided for a telephone system for the new Rockingham County courthouse scheduled to be completed in FY 2007-08.	$125,500	NR		
Trial Courts				
14 **New Deputy Clerk Positions**	$4,245,000	R	$11,145,966	R
Provides funding for 150 new Deputy Clerk positions effective October 1, 2007 and 147 additional positions effective July 1, 2008. The positions shall be allocated by the Administrative Office of the Clerks to more effectively manage Superior and District Court caseloads.	$330,450	NR	$326,487	NR
	150.00		297.00	

	FY 07-08		FY 08-09	
15 **New Magistrate Positions**	$682,752	R	$1,808,184	R
Funding is provided for 42 new magistrate positions to be allocated by the Administrative Office of the Courts. Twenty-one (21) positions become effective October 1, 2007 with the remaining twenty-one (21) positions to become effective on July 1, 2008. The positions shall be allocated as follows:	$85,176 21.00	NR	$86,100 42.00	NR

2007-08		2008-09	
County	#Pos.	County	#Pos.
Alleghany	0.75	Alleghany	0.25
Buncombe	1.0	Cabarrus	1.0
Clay	0.75	Clay	0.25
Davidson	1.0	Cumberland	1.0
Durham	4.0	Gaston	1.0
Forsyth	2.0	Gates	0.25
Gates	0.75	Graham	0.25
Graham	0.75	Guilford	2.60
Guilford	2.0	Haywood	0.75
Haywood	0.25	Henderson	0.5
Iredell	1.0	Jones	0.25
Jones	0.75	McDowell	0.5
Macon	0.5	Mecklenburg	4.5
Mecklenburg	2.0	Moore	0.4
New Hanover	1.0	Pitt	0.5
Pitt	1.0	Union	1.0
Wake	1.5	Wake	5.0
		Wilson	1.0

16 **New District Court Judge Positions**	$428,316	R	$1,034,565	R
Funding is provided for nine (9) new district court judge positions. Six (6) positions become effective January 1, 2008 with the remaining three (3) positions to become effective on January 15, 2009. The positions shall be allocated as recommended by AOC below.	$56,604 6.00	NR	$29,040 9.00	NR

FY 2007-08 (6.0)	FY 2008-09 (3.0)
Dist 26 Mecklenburg	Dist 26 Mecklenburg
Dist 10 Wake	Dist 10 Wake
Dist 11 Johnston, Lee, Harnett	Dist 5 New Hanover, Pender
Dist 18 Guilford	
Dist 12 Cumberland	
Dist 21 Forsyth	

17 **New District Court Judicial Support Staff**	$206,073	R	$562,813	R
Funding is provided for nine (9) District Court Judicial Assistant I positions effective January 1, 2008 plus seven (7) additional positions effective January 15, 2009.	$30,222 9.00	NR	$24,080 16.00	NR
18 **Family Court Expansion**	$521,528	R	$521,528	R
Funding is provided for 8 new positions and associated operating expenses to expand family court into two (2) new districts to be selected by the Administrative Office of the Courts.	$46,728 8.00	NR	 8.00	

	FY 07-08		FY 08-09	
19 **Guardian ad Litem (GAL) Program Staff**	$1,101,010	R	$1,102,775	R
Funding is provided to replace expiring federal grant funds used to support 3 GAL program positions and to establish 12 new positions, including two (2) Regional Administrators and ten (10) Program Supervisors.	$48,272 15.00	NR	 15.00	
20 **GAL Contract Attorney Rate Adjustment**	$500,000	R	$500,000	R
Funds are provided to increase the contract rate paid to private GAL attorneys who represent children in hearings before the court. The contract adjustment will increase the GAL attorneys' rate from $45 to $65, the rate currently paid to court-appointed parent attorneys.				
21 **Drug Treatment Court Positions**	$833,769	R	$1,236,560	R
Funding is provided to replace expiring federal and county grant funds used to support 13.75 positions in Drug Treatment Courts in 9 districts. Funds will be needed for 10.75 of these positions on July 1, 2007. Federal funds for the remaining 3 positions will expire on June 30, 2008. In addition, funds are provided for one AOC drug treatment court administrative position and for on-going management information system costs.	$52,701 10.75	NR	$26,085 14.75	NR
22 **New Superior Court Judicial Support Staff**	$44,622	R	$217,994	R
Funding is provided for five (5) new Superior Court Judicial Assistant I positions. Two positions become effective January 1, 2008 to support the two (2) new special superior court judge positions. The remaining three (3) positions become effective July 1, 2008 and are to be allocated by AOC.	$6,668 2.00	NR	$10,260 5.00	NR
23 **Special Superior Court Judges**	$177,530	R	$325,092	R
Funding is provided for 2 new Special Superior Court Judge positions, effective January 1, 2008.	$12,728 2.00	NR	 2.00	
24 **Continuation Review - Clerks Conference**	($121,402)	R	($121,402)	R
Funding is provided for the Clerks of Superior Court Conference for FY 2007-08 only. Restoration of FY 2008-09 funds is subject to findings of the Continuation Review.	$121,402	NR	 -2.00	
Total Legislative Changes	**$21,360,774**	R	**$38,073,921**	R
	$3,551,040	NR	**$815,642**	NR
Total Position Changes	386.75		653.75	
Revised Budget	**$432,747,865**		**$452,389,917**	

Judicial - Indigent Defense

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$101,886,218**		**$105,772,513**	
Legislative Changes				
Indigent Persons Attorney				
25 **Hourly Rate for Assigned Counsel** Funding is provided to allow the IDS Commission to increase the rate for private assigned counsel in non-capital cases from $65/hour to $75/hour effective January 1, 2008.	$4,130,255	R	$8,500,000	R
26 **Electronic Fee Applications Pilot** Funding is provided to develop and pilot the electronic submission and payment of attorney fee applications.	$175,000	NR		
27 **Certiorari Filing Fees** Funding is provided to cover the cost of certiorari filing fees for cases on appeal to the North Carolina or United States Supreme Courts.	$50,000	R	$50,000	R
Public Defender Office				
28 **Equipment Replacement** Governor's Recommendation: funding is provided to establish a six-year equipment replacement schedule for equipment in the Public Defender Offices.	$98,778	R	$98,778	R
29 **Expand Public Defender Offices** Funding is provided to expand the number of Public Defender offices and attorney positions around the state.			$1,570,057	R
Sentencing Services				
30 **Grants to Sentencing Services Nonprofits** Governor's Recommendation: funding is provided to increase the FY 2007-08 grants to local Sentencing Services programs operated by nonprofit agencies.	$200,000	NR		
Total Legislative Changes	**$4,279,033** **$375,000**	R NR	**$10,218,835**	R
Total Position Changes				
Revised Budget	**$106,540,251**		**$115,991,348**	

Justice

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$94,586,393**		**$91,003,762**	
Legislative Changes				
Legal Services				
31 **Special Litigation Reserve** Elimination of the Governor's continuation request for special litigation funds.	($1,067,150)	R	($1,067,150)	R
32 **Victims of Human Trafficking Reserve** Pass through funding to provide legal assistance to human trafficking victims. This appropriation is contingent upon the enactment of House Bill 974, Senate Bill 1079, or substantially similar legislation during the 2007 General Assembly	$50,000	NR		
33 **Consumer Protection Specialist** Funding to establish and support a consumer protection specialist position in the Department of Justice. The consumer protection specialist shall be responsible for (i) coordinating consumer complaints from military personnel and their families, (ii) providing a single point of contact in the Consumer Protection Division for military personnel, their families and military attorneys; and (iii) communicating with military bases in North Carolina on a regular basis to inform the appropriate military offices of services provided by the Consumer Protection Division, to discover new complaints, and follow up on cases initiated by military personnel or their families through military offices.	$47,323 $3,596 1.00	R NR	$47,323 1.00	R
34 **Medicaid Fraud Unit Staff Expansion** Funding is provided for 5 staff positions to assist in Medicaid recovery efforts. These positions will also provide investigative and prosecutorial support for new Medicaid fraud criminal and civil penalties.	$85,141 5.00	R	$85,141 5.00	R
35 **Receipt-Supported Position** Using receipts from the State Education Assistance Authority, the Division may establish a Paralegal II (PG 69) position, effective July 1, 2007.				
SBI				
36 **Drug and Violent Crime Agents** Funding to establish 3 sworn agent positions to investigate drug, violent crime and gang related cases.	$215,073 $88,191 3.00	R NR	$215,073 3.00	R

	FY 07-08		FY 08-09	
37 **Computer Crimes Unit Positions**	$161,070	R	$161,070	R
Funding to establish 2 sworn agents to investigate child exploitation and sexual predator cases.	$76,056	NR		
	2.00		2.00	
38 **Sex Offender Technology Support**	$210,368	R	$210,368	R
Governor's recommendation: Funding for a staff position and operating funds to support the operation of the sex offender registry.	$6,856	NR		
	1.00		1.00	
39 **SBI Equipment Replacement Reduction**				
Reduction in the Governor's continuation request for SBI equipment replacement.	($690,514)	NR		
40 **Convicted Offender DNA Processing Resources**	$279,957	R	$279,957	R
Funding for 3 Information Processing Technicians to receive, analyze and upload DNA samples into the SBI CODIS database. This appropriation also includes operating funds.	$132,819	NR		
	3.00		3.00	
41 **Piedmont Triad Regional Crime Laboratory**	$431,837	R	$1,168,623	R
Funding for the establishment of the Piedmont Triad Regional Crime Laboratory. Scheduled to be open in April of 2008, this lab will provide drug chemistry, fingerprint analysis, latent evidence analysis, computer forensics, and drug toxicology services to the Triad region. This lab will be staffed with the 12 non-sworn staff positions.	$156,074	NR		
	12.00		12.00	

Staff Positions (Effective April 2008):

Chemists	3
Computer Forensic Analysts	2
Forensic Toxicologists	2
Latent Examiners	2
Office Assistants	2
Evidence Technician	1

Training and Standards

42 **School Training Safety Coordinator Position**	$67,503	R	$67,503	R
Funding for a staff position to develop and administer uniform school safety and gang prevention programs for school resource officers.	$20,606	NR		
	1.00		1.00	
Total Legislative Changes	**$431,122**	R	**$1,167,908**	R
	($156,316)	NR		
Total Position Changes	28.00		28.00	
Revised Budget	**$94,861,199**		**$92,171,670**	

Juvenile Justice & Delinquency Prevention

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$159,464,742**		**$163,791,473**	
Legislative Changes				
Department-Wide				
43 **Eliminate funding for vacant positions** Eliminate funding for positions that have been vacant for one year or longer. Sixty-nine of these positions are vacant YDC positions, 5 positions are vacant Detention Services positions, and 1 position is a vacant Intervention/Prevention position.	($2,530,058) -75.00	R	($2,530,058) -75.00	R
Detention Services				
44 **State Share In-County Detention** Reduce the increase in the state share for in-county detention and fund the actual 2005-06 amount. This will not reduce the payments to counties for the state share of detention centers.	($260,202)	R	($260,202)	R
Intervention/Prevention				
45 **Continuation Review-JCPC County Allocation** Funding is provided for the JCPC county allocation for FY 2007-08 only. Restoration of FY 2008-09 funds is subject to findings of the Continuation Review.	($22,652,860) $22,652,860	R NR	($22,652,860)	R
Special Initiatives				
46 **Eckerd Wilderness Camp Contract** Funds are provided to increase the daily contract rate for 346 beds to $132.55 per day in 2007-08 and to $134.94 per day in 2008-09, up from the current rate of $121.77 per day. These increases will partially address the difference between the daily contract rate and Eckerd's current actual operating cost for the seven camps of $141.01 per day.	$1,361,406	R	$1,663,239	R
47 **Eliminate funding for CIS** Eliminate JJDP funding for the state administrative office of Communities in Schools. CIS continues to receive General Fund support from the Department of Public Instruction.	($181,588)	R	($181,588)	R
48 **Macon County Multipurpose Group Home** Provide start-up funds, including contractual services, to reopen the Macon County Multipurpose Group Home.	$300,000	NR		

Conference Report on the Continuation, Capital, and Expansion Budget	FY 07-08		FY 08-09	
Youth Development Centers				
49 **Post-Secondary Educational Assistance to Students**				
Governor's Recommendation: Provide scholarships to former YDC students who have completed their GED or high school diploma to take courses at a community college.	$100,000	NR		
50 **Delay funding for Edgecombe YDC**				
Delay funding for two months of new Edgecombe Youth Development Center because of construction delays.	($270,706)	NR		
51 **Delay funding for Chatham YDC**				
Delay funding for two months of new Chatham Youth Development Center because of construction delays.	($573,406)	NR		
52 **Triad YDC**				
Reduce continuation budget funding for a new Triad Youth Development Center because the original project site fell through and DJJDP is seeking another construction site. The Triad YDC is expected to open in April of 2009, and operating funds will be provided the final quarter of 2009.	($1,243,352) -23.48	NR	($2,922,964) -50.00	NR
53 **Eckerd EFFORT Project**	$1,347,831	R	$2,695,662	R
Provide start-up and recurring funds for a 36-bed facility for committed youth operated by Eckerd Youth Alternatives, Inc. The Eckerd Family Focus on Rehabilitative Treatment (EFFORT) will be carried out through a contract between DJJDP and Eckerd. EFFORT will provide 36 beds for DJJDP to assign committed youth and will offer a therapeutic treatment model similar to DJJDP. The proposed site for the project is two cottages located on the Samarkand Youth Development Facility in Eagle Springs, NC, and $534,000 is provided to complete a R&R project in the two cottages.	$534,000	NR		
54 **Reduce Barber/Hair Care Services**	($46,598)	R	($46,598)	R
Cut the continuation increase to reflect 2005-06 actual expenditures for barber and hair care services provided at the Youth Development Centers.				
Total Legislative Changes	**($22,962,069)**	R	**($21,312,405)**	R
	$21,499,396	NR	**($2,922,964)**	NR
Total Position Changes	-98.48		-125.00	
Revised Budget	**$158,002,069**		**$139,556,104**	

Correction

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$1,214,815,488		$1,235,981,287	
Legislative Changes				
Alcohol and Chemical Dependency Program				
55 **Inmate Drug and Alcohol Addiction Treatment**				
Increases the capacity for treating drug and alcohol addiction by providing 10 additional contract beds to house male inmates who are being provided intensive treatment for drug and alcohol abuse and addiction. These funds shall be used solely to house and treat these inmates and to maximize the treatment facility's capability to provide intensive treatment to chemically dependent male inmates	$239,805	NR		
Community Corrections				
56 **Increase funding for Women at Risk**				
Increase funding for the Women at Risk program, a community-based treatment program serving females offenders and their families.	$70,000	NR		
57 **Increase funding for Summit House**				
Increase the funding for Summit House, a community-based residential alternative to incarceration for mothers and pregnant women convicted of non-violent crimes.	$100,000	NR		
58 **Eliminate CJPP Inflationary Increase**	($372,357)	R	($372,357)	R
Eliminate the Criminal Justice Partnership Program inflationary increase. State budget instructions do not permit an inflationary increase for this program.				
59 **Continuation Review-CJPP**	($9,153,134)	R	($9,153,134)	R
Funding is provided for the Criminal Justice Partnership Program for FY 2007-08 only. Restoration of FY 2008-09 funds is subject to findings of the Continuation Review.	$9,153,134	NR		
Department Management				
60 **IT Project Manager**	$112,308	R	$112,308	R
Governor's Recommendation: This position will serve as a second IT Project Manager for DOC information technology projects.. Position will be responsible for direct project management and for inputting and tracking DOC projects through the State Information Technology project management tool.	$4,193 1.00	NR	 1.00	

	FY 07-08		FY 08-09	
61 **Offender System Upgrade**				
Governor's Recommendation: DOC's offender information system (OPUS) was developed in 1994 and requires updating to a more modern and secure system architecture. These funds are to develop an initial plan for system design, the schedule for completing the project and the estimated costs.	$494,986	NR		
62 **Special Projects Staff**	$116,699	R	$155,680	R
Governor's Recommendation: The DOC Secretary's Office has operated for several years with two grant funded positions. These positions coordinate grants department wide and are also responsible for DOC Emergency Operations plans and the DOC Leadership Development Program. State funds will replace federal funding which ends September 30, 2007.	2.00		2.00	
63 **Central Engineering Positions**	$776,248	R	$776,248	R
These positions are primarily to increase the number of inmates participating in prison construction and renovation and repair projects. The positions are a mix of construction engineers and tradesmen (HVAC, electrical). This budget funds 14 positions in DOC priority order.	$210,435	NR		
	14.00		14.00	
64 **Victims Services Positions**	$53,905	R	$53,905	R
Adds one position to the DOC Office of Victim Services: an Outreach Specialist I. The Specialist would handle all inquiries from Hispanic victims and other requests as well. Staffing has been level at 5 positions since 2001, although calls have increased significantly.	$4,194	NR		
	1.00		1.00	
65 **Departmental Energy Budget**	($750,000)	R	($750,000)	R
The recommended continuation budget for DOC energy was $4.4 million greater than projected expenditures for 06/07. The continuation increase is reduced by $1.25 million but $500,000 is Non-Recurring.	($500,000)	NR		
66 **Reduce Increase in Administrative Positions**	($543,609)	R	($543,609)	R
The DOC continuation budget included a request for 39 new administrative positions. The positions are primarily for training, personnel and fiscal operations. This budget funds 27 of 39 positions in DOC priority order and deletes positions 28-39.	($46,542)	NR		
	-12.00		-12.00	
Prisons				
67 **Neuse Correctional Center**	$454,456	R	$454,456	R
Authorizes DOC to convert 77 regular population beds to 77 misdemeanor processing beds. Neuse is the only diagnostic center for adult misdemeanants. Admissions are anticipated to increase by over 140 a month in 2007 and 2008. The new staffing is to add various diagnostic staff, increase custody supervision in a dormitory for inmates being processed and increase correctional transportation officers.	$32,192	NR		
	11.00		11.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 07-08		FY 08-09	
68 **Prison Case Manager**	($34,079)	R	($34,079)	R
The DOC Recommended Continuation Budget included three new positions. The positions are reduced from three to two.	-1.00		-1.00	
69 **Reduce Jail Misdemeanant Payments**	($225,000)	R	($225,000)	R
Counties are paid $18 a day by DOC for housing offenders sentenced to 30 to 90 days in county jails. The Governor recommended an increase of approximately $900,000 over projected expenditures for FY 06/07. The increase is reduced by $450,000 the first year and $225,000 in 08/09.	($225,000)	NR		
70 **Swannanoa Female Prison**				
DJJDP transferred a portion of the Swannanoa property to DOC to establish a 166 bed female minimum custody prison. The project has been delayed, allowing for a one time reduction by hiring positions at later dates than originally budgeted	($624,053)	NR		
71 **Tabor Correctional Center**				
Tabor is the last of the six 1,000 bed prisons authorized by the General Assembly. The prison is scheduled to open May 2008 and receive inmates September 2008. This one-time reduction is achieved by sliding the schedule for positions due to be established in Nov 07 and Dec. 07 by one month	($296,000)	NR		
72 **Domestic Violence Reserve**	$125,876	R	$125,876	R
Establishes a reserve to implement the provisions of SL 2007-190, Violate Order/Possess Deadly Weapon Felony.	$21,500	NR		
73 **Our Children's Place Administration**	$46,000	R	$46,000	R
Funding for contractual services to be used for a position that will operate as an assistant to the Executive Director of Our Children's Place, a program for female inmates.	$4,000	NR		
Total Legislative Changes	**($9,392,687)**	R	**($9,353,706)**	R
	$8,642,844	NR		
Total Position Changes	16.00		16.00	
Revised Budget	**$1,214,065,645**		**$1,226,627,581**	

Crime Control and Public Safety

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$39,283,058**		**$39,307,071**	
Legislative Changes				
Administration				
***74* Law Enforcement Support Services**				
Funding for warehouse rental costs. These funds will replace federal grant funding that has been eliminated.	$136,175	NR		
ALE				
***75* eCitation Expansion**				
Funding to expand the automation of the citation writing process to all ALE field agents.	$160,000	NR		
***76* Elimination of Boxing Authority Increase**	($32,618)	R	($32,618)	R
Elimination of program operating increases included in the Governor's continuation request.				
Emergency Management				
***77* Regional Response Teams**				
Funding for 7 HAZMAT Regional Response Teams. Funds will be used to support the teams' training and equipment replacement.	$250,000	NR		
***78* Accountant I**	$68,893	R	$68,893	R
Governor's Recommendation: Establishes an Accountant I position within the Emergency Management Division to manage the Division's federal assistance funds.	1.00		1.00	
***79* Flood Plain Mapping**	$1,697,252	R	$1,342,044	R
Funding for staff and contractual service costs. This recommendation includes $2.4 m (NR) for engineering contracts and funds 20 positions currently funded with special reserve funds. Staff positions are reduced during the biennium to reflect the program's shift from the map development phase to the map maintenance phase.	$2,400,000 20.00	NR	 15.00	
2008-09: (Elimination of 5 positions) Database Specialist Environmental Engineer III Computing Consultant II Emergency Planner I Community Development Planner II				

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Governor's Crime Commission				
80 **Illegal Immigration Project**				
Funding for a Governor's Crime Commission grant to the North Carolina Sheriff's Association. This grant will be used for technical assistance and training associated with immigration enforcement.	$750,000	NR		
81 **Gang Intervention and Suppression**				
Funding for grants to local government and community agencies for gang prevention, intervention and suppression initiatives.	$4,760,195	NR		
National Guard				
82 **National Guard Family Assistance Centers**	$420,000	R	$420,000	R
Funding to establish 3 National Guard Family Assistance Centers to provide benefit and planning services to families of deployed National Guard members.				
Victims Compensation Services				
83 **Victims Compensation**	$298,896	R	$383,647	R
Funding to reduce the program's backlog of approved but unpaid claims. The expansion will increase federal VOCA receipts, since VOCA provides a 60% match to appropriated state funds.	$1,309,486	NR		
Total Legislative Changes	**$2,452,423**	R	**$2,181,966**	R
	$9,765,856	NR		
Total Position Changes	21.00		16.00	
Revised Budget	**$51,501,337**		**$41,489,037**	

GENERAL GOVERNMENT
Section J

Administration

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$65,923,562		$66,457,866	
Legislative Changes				
1411 State Construction				
1 Design Review Team Addition	$318,287	R	$318,287	R
Funds are provided for four new positions to establish an additional Design Review Team. The positions include three Building Systems Engineer II positions ($63,000 each) and one Facility Architect II position ($63,000). A new team will accelerate the review process and allow construction to begin more quickly.	$16,000 4.00	NR	 4.00	

Recurring	FY2007-08	FY2008-09
531211 Salaries	$252,000	$252,000
531511 Social Security	$ 19,278	$ 19,278
531521 Retirement	$ 17,993	$ 17,993
531561 Medical Insurance	$ 15,416	$ 15,416
533110 General Office Supplies	$ 2,400	$ 2,400
5327XX Travel Expense	$ 1,200	$ 1,200
532811 Telephone Service	$ 2,400	$ 2,400
532840 Postage	$ 800	$ 800
532850 Reproduction	$ 800	$ 800
532332 Repairs & Maintenance	$ 800	$ 800
532821 Computer/Data Processing	$ 3,200	$ 3,200
534521 Office Equipment	$ 8,000	$ 1,000
534534 Equip-Computers	$ 10,000	$ 1,000
Total Recurring	$334,287	$318,287

1421 Facilities Management				
2 Reduce Operating Budget	($996,859)	R	($996,859)	R
Eliminates the continuation budget increase for utilities.				
1731 Council for Women/DV Commission				
3 Rape Crisis/Sexual Assault	$894,006	R	$904,890	R
Provides increased funding for rape crisis and sexual assault services.				
4 Abolish Position	($38,741)	R	($38,741)	R
Abolishes vacant Human Services Coord II position (Pos. No. 4116-0000-0014-300).	-1.00		-1.00	

	FY 07-08		FY 08-09	
5 **Additional Positions**	$138,022	R	$138,022	R
Establish three new positions for the Council for Women and Domestic Violence. One position is for an Office Assistant III for a Regional Director; the two other positions are Community Development Specialists needed to help the council comply with state rules and regulations regarding the monitoring of state grant funds.	$1,600	NR		
	3.00		3.00	
1861 Commission on Indian Affairs				
6 **NC Indian Economic Development Initiative, Inc.**				
Provides funds to continue the work of the Initiative aimed at spurring economic development and creating jobs in rural Indian communities.	$150,000	NR		
2791 License to Give Trust Fund Commission				
7 **License to Give Receipt-Supported Positions**				
Authorizes a permanent part-time (24 hrs per week) Administrative Assistant III position that will support the Chair of the Commission, work with grantees to ensure compliance with obligations and reporting as agreed upon in the grant agreement, and create materials to promote awareness and availability of grants funded by the Commission.				
Salary and fringe benefits total $25,836 for FY 2007-08. The position is receipt-supported.				
Office of the Secretary				
8 **Establish Revenue Hearings Officer Function**	$167,283	R	$167,283	R
Establishes two positions in the Secretary's office to hear appeals on tax cases from the Revenue Department. These positions are being transferred from the Revenue Department to separate the functions of tax law enforcement and hearings. The positions are an Administrative Hearings Officer and an Administrative Assistant.	2.00		2.00	
State Capitol Police				
9 **Additional Public Safety Officers**	$186,069	R	$186,069	R
Funds are provided to hire four additional Public Safety Officers ($28,822 each) to respond to calls for law enforcement services from state agencies in the greater Raleigh/Wake County area. The positions are needed to provide adequate law enforcement services to agencies that have located beyond the normal coverage areas and the downtown state government complex.	4.00		4.00	

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State Energy Office				
10 **Energy Office Funding** The following funding is provided for the State Energy Office: 1. $ 700,000 recurring to transfer 8 positions from receipt to appropriation support and for administrative and operating expenses associated with these eight positions. 2. $600,000 recurring in grants to support the Utility Savings Initiative. 3. $1,382,500 in FY 2007-08 and $2,690,000 recurring in FY 2008-09 to support the operations of 3 university energy programs: The NC A&T University Center for Energy Research and Technology; the NC State University Solar Center; and the Appalachian State University Energy Center. 4. $5,000,000 nonrecurring in FY 2007-08 for an energy efficiency reserve. The 8 positions transferred from receipt to appropriation support include: Energy Division Director $ 86,699 Energy Conser Repr II $ 51,348 Building Systems Eng II $ 55,687 Energy Conser Repr II $ 51,986 Energy Conser Repr II $ 51,115 Energy Conser Repr II $ 48,939 Building Systems Eng I $ 56,603 Information Proc Tech $ 34,803	$2,682,500 $5,000,000	R NR	$3,990,000	R
Total Legislative Changes	**$3,350,567** **$5,167,600**	R NR	**$4,668,951**	R
Total Position Changes	12.00		12.00	
Revised Budget	**$74,441,729**		**$71,126,817**	

Auditor

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$12,722,540		$12,735,993	
Legislative Changes				
1210 Field Audit				
***11* Database for Non-Governmental Organizations (NGOs)**				
Funding is provided to implement a real-time data base to house grant compliance and reporting information for NGOs receiving state funds.	$80,000	NR		
Recurring FY2007-08 532199 Professional Services $ 36,000 532942 Training $ 6,400 534711 Subscription Services $ 16,000 532199 Project Management Serv $ 12,000 532140 Hosting at ITS $ 9,600 Total Recurring $ 80,000				
***12* Data Mining/Business Intelligence**				
Funding is provided for operating support to train staff to ensure critical systems are in place regarding business intelligence and analysis as state government moves to the shared IT infrastructure and for assisting ITS in developing data warehousing and shared data services for state government.	$40,000	NR		
Recurring FY2007-08 532942 Training $ 40,000				
***13* Microsoft Enterprise Agreement**	$60,486	R	$60,486	R
Funding is provided for a Microsoft (MS) enterprise agreement to include all MS operating systems, office applications, and servers to improve security, mitigate risks of aging technology, and improve operations inherent in server technologies. These funds are to be placed in a reserve account.				
Recurring FY2007-08 FY2008-09 534711 Other Computer Software $ 60,486 $ 60,486				
***14* Eliminate Equipment Replacement Schedule**	($50,000)	R	($50,000)	R
Eliminates an increase from the continuation budget to put the Auditor's Office on a replacement schedule for computer equipment.				

	FY 07-08		FY 08-09	
Total Legislative Changes	$10,486	R	$10,486	R
	$120,000	NR		
Total Position Changes				
Revised Budget	$12,853,026		$12,746,479	

Cultural Resources

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$68,672,441**		**$69,561,683**	
Legislative Changes				
Archives and History				
15 **Enhanced History Education** Provides funds to continue and broaden history education activities initiated under the Cultural Sharing and Caring pilot program in 2006-07. These funds are appropriated to the Division of Archives and History, which will collaborate with the State Board of Education to meet curriculum demands and to schedule events.	$100,000	R	$100,000	R
16 **Abandoned Cemetery Preservation** Establishes a new function within the Department of Cultural Resources to preserve and protect abandoned cemeteries. This new program was recommended by the House Study Committee on Abandoned Cemeteries. Two positions are created to carry out the function.	$119,741 $13,600 2.00	R NR	$119,741 2.00	R
17 **CSS Neuse Funds** Appropriates $500,000 to provide adequate climate-controlled housing for the CSS Neuse, a Civil War-era ironclad gunboat. The relic is a designated historic site in the Division of Archives and History, and needs proper storage and preservation to prevent its loss.	$500,000	NR		
18 **Charlotte Hawkins Brown Historic Site** Appropriates $50,000 to contract for a professional facilities planner to assess the capacities and capability of campus facilities for a variety of uses, including community and economic development activities, educational outreach centers, and meeting spaces.	$50,000	NR		
19 **African-American Monument Project** Appropriates $100,000 to the fabricate and construct a monument to the African-American experience in North Carolina in the State Government Complex in Raleigh. The Department will pass these funds to the North Carolina Freedom Monument Project, Inc.	$100,000	NR		
20 **International Civil Rights Museum** Appropriates $500,000 for capital costs of a civil rights museum. The Department will pass these funds to the non-profit organization Sit-In Movement, Inc.	$500,000	NR		

	FY 07-08		FY 08-09	
Arts Council				
21 **Expand Arts Council Basic Grants** Provides additional recurring funds for the competitive Basic Grants Program in the Arts Council to be awarded through the formal application process.	$1,000,000	R	$1,000,000	R
22 **cArtwheels Funding** Appropriates funds to extend the arts components of the Cultural Sharing and Caring pilot program. The program will provide exposure to professional performing arts for students in the public schools. These funds are appropriated to the Arts Council, and will be awarded based on an application process to emphasize geographic distribution, diversity, and variety of programs, such as dance, opera, music, and theater.	$1,000,000	NR		
23 **Expand Grassroots Arts Program** Increases funding for the Grassroots Arts Program in the Arts Council.	$1,000,000	R	$1,000,000	R
24 **Opera Company of North Carolina** Appropriates $25,000 to the Opera Company of North Carolina for operational support.	$25,000	NR		
25 **Horn in the West Operational Support** Appropriates $25,000 to the Southern Appalachian Historical Association, Inc., for operational support for the outdoor drama Horn in the West.	$25,000	NR		
Museum of History				
26 **Graveyard of the Atlantic** Provides $300,000 recurring to make the Graveyard of the Atlantic Museum a state-operated facility as part of the History Museum Division.	$300,000 6.00	R	$300,000 6.00	R
NC Symphony				
27 **Symphony Operating Funds** Provides $540,000 NR to the Symphony for operating support.	$540,000	NR		
Reserves				
28 **Reduce Reserves-Exhibits** Eliminates a $200,000 reserve for new exhibits within the Department of Cultural Resources.	($200,000)	R	($200,000)	R
State Archaeology				
29 **Queen Anne's Revenge Archaeology Project** Increases operational support for the Queen Anne's Revenge archaeological project. These funds will sustain major recovery efforts, conservation, and analysis of artifacts and images from the 18th century shipwreck.	$150,000	NR		

	FY 07-08		FY 08-09	
Statewide Programs and Grants				
30 **Aid to Public Libraries** Increases the appropriation to public libraries by $475,000 non-recurring. These funds will be distributed based on the existing formula for county library grants.	$475,000	NR		
Total Legislative Changes	**$2,319,741** **$3,378,600**	R NR	**$2,319,741**	R
Total Position Changes	8.00		8.00	
Revised Budget	**$74,370,782**		**$71,881,424**	

General Assembly

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$55,729,083		$56,931,204	
Legislative Changes				
31 **Reduce Contingency Reserves** Reduces funding in the General Assembly's contingency reserves, which are used when sessions go beyond projected length, when special sessions are called, and for other purposes such as to fund the Government Performance Audit Commission.	($636,863)	R	($636,863)	R
32 **Reduce Temporary Salary Line Item** Takes a recurring reduction to the funding for temporary employee salaries. These funds are based on expected session lengths and allowance of days per week for member support staff.	($553,555)	R	($553,555)	R
Total Legislative Changes	**($1,190,418)**	R	**($1,190,418)**	R
Total Position Changes				
Revised Budget	$54,538,665		$55,740,786	

Governor

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$6,462,319		$6,500,587	
Legislative Changes				
1110 Administration				
***33* Eliminate Communities in Schools Pass-Through** Eliminates the transfer to the central office of Communities in Schools from the General Government section of the budget. This non-profit office still receives funding through the Public Instruction budget.	($200,000)	R	($200,000)	R
Total Legislative Changes	($200,000)	R	($200,000)	R
Total Position Changes				
Revised Budget	$6,262,319		$6,300,587	

Housing Finance Agency

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$4,750,945**		**$4,750,945**	
Legislative Changes				
Administration				
34 **Receipt-Supported Positions** Establishes two receipt-supported positions for the Housing Finance Agency. The first position is a Senior Supportive Housing Development Officer at a position cost of $69,224, and the second is Loan Underwriter at a position cost of $57,338. These positions are funded through receipts from the Department of Health and Human Services for housing assistance for persons with disabilities.	2.00		2.00	
HOME Match				
35 **Reduce HOME Match Program** Takes a recurring reduction to the HOME Match program in the Housing Finance Agency. This reduction is 3% of the overall Housing Finance Agency budget.	($142,528)	R	($142,528)	R
Housing Programs				
36 **North Carolina Housing Trust Fund** Appropriates additional recurring funds to support the Housing Trust Fund. This fund seeks to provide decent, safe, and affordable housing for North Carolina citizens with low to moderate incomes. The trust fund currently expends $3 million per year; this expansion will increase that expenditure to $8 million recurring.	$5,000,000	R	$5,000,000	R
37 **Home Protection Pilot Program** Provides non-recurring funds to continue the Home Protection Pilot program that assists homeowners in 26 counties who are at risk of losing their homes due to job loss. The program offers short- or long-term loans to qualifying homeowners so that they can maintain their home while regaining employment.	$1,500,000	NR		

	FY 07-08		FY 08-09	
38 **Housing Assistance for Persons with Disabilities**				
Provides funding to the North Carolina Housing Trust Fund for the financing of additional independent- and supportive-living apartments for people with disabilities. The apartments shall be affordable to those with incomes at the Supplemental Security Income (SSI) level. A description of this item is also located in the Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services Section of this report.	$7,500,000	NR		
Total Legislative Changes	**$4,857,472**	R	**$4,857,472**	R
	$9,000,000	NR		
Total Position Changes	2.00		2.00	
Revised Budget	**$18,608,417**		**$9,608,417**	

Insurance

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$30,841,859**		**$30,880,430**	
Legislative Changes				
Department wide				
***39* Reduce Operating Line Items 1%** Reduces various operating line items to produce a cut of 1% of the Department of Insurance's budget.	($308,419)	R	($308,419)	R
State Fire Marshal				
***40* Staff Expansion** Funds four receipt-supported positions for State Building Construction Code Review, Inspection, and Enforcement to achieve targeted review times, implement new services and provide training activities for owner agencies and designers. Recommendations for these positions were included in the Legislative Study Commission on State Construction Inspections' report.	$364,693 $24,000 4.00	R NR	$364,693 4.00	R
Total Legislative Changes	**$56,274** **$24,000**	R NR	**$56,274**	R
Total Position Changes	4.00		4.00	
Revised Budget	**$30,922,133**		**$30,936,704**	

Lieutenant Governor

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$931,294**		**$932,281**	
Legislative Changes				
41 **Additional Office Assistant Hours** Funds an increase in the work hours for the Office Assistant position from 16 hours to 20 hours per week.	$4,019 0.10	R	$4,019 0.10	R
42 **Operating Budget Increase** Funds an increase to the operating budget, including membership dues and subscriptions, for the Office of the Lieutenant Governor.	$2,791	R	$2,791	R
43 **Reduce Continuation Increase** Reduces an increase built into the continuation budget for data processing costs.	($23,982)	R	($23,982)	R
Total Legislative Changes	**($17,172)**	R	**($17,172)**	R
Total Position Changes	0.10		0.10	
Revised Budget	**$914,122**		**$915,109**	

Office of Administrative Hearings

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$3,495,009**		**$3,502,386**	
Legislative Changes				
Civil Rights				
***44* Eliminate Civil Rights Investigator Position**	($46,697)	R	($46,697)	R
Eliminates an Investigator position in the Civil Rights Division that has been vacant since May, 2006.	-1.00		-1.00	
Hearings				
***45* Administrative Hearings Assistant**	$48,546	R	$48,546	R
Establishes a Hearings Assistant position to provide administrative and clerical support to the two new Administrative Law Judge positions created in the 2006 budget.	$2,100 1.00	NR	1.00	
***46* Automated Case Tracking System Replacement**	$17,500	R	$17,500	R
Funds the replacement the Automated Case Tracking System. A new tracking system will improve key business functions for the Office of Administrative Hearings and improve both public interaction and departmental accountability.	$175,000	NR		
Total Legislative Changes	**$19,349**	R	**$19,349**	R
	$177,100	NR		
Total Position Changes	0.00		0.00	
Revised Budget	**$3,691,458**		**$3,521,735**	

Revenue

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$87,619,246**		**$87,711,626**	
Legislative Changes				
Collections and Examinations				
***47* Budget Project Collect Fees** Budgets $1.75 million in Project Collect collection assistance fees and moves 45 positions in the Collections and Examinations Division from General Fund to receipt-support.	($1,750,000) -45.00	R	($1,750,000) -45.00	R
Department-wide				
***48* Reduce Line Items 2%** Takes a 2% reduction in several line items related to temporary employees.	($1,752,384)	R	($631,015)	R
Hearings				
***49* Move Administrative Hearings Officer to DOA** Reduces the appropriation to the Department of Revenue for two positions, the Administrative Hearings Officer position and its associated administrative assistant. These funds will be transferred to the Department of Administration to house this function.	($167,283) -2.00	R	($167,283) -2.00	R
Total Legislative Changes	**($3,669,667)**	R	**($2,548,298)**	R
Total Position Changes	-47.00		-47.00	
Revised Budget	**$83,949,579**		**$85,163,328**	

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$10,600,417		$10,686,083	
Legislative Changes				
1210 Corporations				
***50* Redaction of Personal Information**				
Funds are provided to redact identifying information from Business Entity database images.	$812,500	NR		
1230 Securities Registration				
***51* Staff Expansion**	$56,958	R	$56,958	R
Funding is provided to establish a Securities Examiner I position ($37,066) to serve as a field auditor for broker-dealer firms and investment advisor firms to ensure compliance with the NC Investment Advisor Act and Securities Act.	$7,115 1.00	NR	 1.00	

Recurring	FY2007-08	FY2008-09
531211 Salaries	$ 37,066	$ 37,066
531511 Social Security	$ 2,836	$ 2,836
531521 Retirement	$ 2,647	$ 2,647
531561 Medical Insurance	$ 3,854	$ 3,854
532714 Transportation-In State	$ 4,235	$ 4,235
532721 Lodging-In State	$ 1,630	$ 1,630
532724 Meals-In State	$ 1,040	$ 1,040
532811 Telephone Services	$ 260	$ 260
532814 Cellular Phone Services	$ 790	$ 790
532840 Postage Freight Delivery	$ 200	$ 200
532850 Print, Bind, Duplicate	$ 300	$ 300
532930 Registration Fees	$ 200	$ 200
533110 General Office Supplies	$ 315	$ 315
533900 Other Materials/Supplies	$ 185	$ 185
534511 Office Furniture	$ 3,850	$ 0
534521 Office Equipment	$ 100	$ 0
534528 Voice Comm Equipment	$ 165	$ 0
534534 Personal Computer/Print	$ 3,000	$ 0
534630 Library & Learning Res	$ 220	$ 220
535830 Membership Dues/Subscri	$ 1,180	$ 1,180
Total Recurring	$ 64,073	$ 56,958

	FY 07-08		FY 08-09	
Total Legislative Changes	**$56,958**	R	**$56,958**	R
	$819,615	NR		
Total Position Changes	1.00		1.00	
Revised Budget	**$11,476,990**		**$10,743,041**	

State Board of Elections

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$5,861,461**		**$5,874,026**	
Legislative Changes				
1100 Administration				
***52* Reduce Operating Budget** Reduces the operating budget for LAN Support Services by $48,078.	($48,078)	R	($48,078)	R
***53* Additional Office Space** Funding is recommended for additional office space to house the Administration Division.	$75,000 $27,750	R NR	$77,250	R
1200 Campaign Reporting				
***54* Time-Limited Audit Specialists** Funding is provided to maintain the three time-limited Audit Specialists authorized in the 2006 budget until December 31, 2008 in order to eliminate the auditing backlog of campaign finance reports.	$177,339 3.00	NR	$88,670 3.00	NR
***55* Web-based and Regional Training** Funding is provided for online training, regional seminars, and a learning management system to track data for committee treasurers. The training is required by G.S. 163-278.7(f).	$55,000 $40,000	R NR	$55,000	R
Total Legislative Changes	**$81,922** **$245,089**	R NR	**$84,172** **$88,670**	R NR
Total Position Changes	3.00		3.00	
Revised Budget	**$6,188,472**		**$6,046,868**	

Recurring	FY2007-08	FY2008-09
532821 Computer/Data Processing	$ 80,000	$ 40,000
532714 Transportation Ground-IS	$ 10,000	$ 10,000
535900 Other Expenses	$ 5,000	$ 5,000
Total Recurring	$ 95,000	$ 55,000

State Budget & Management

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$5,930,060**		**$5,936,765**	
Legislative Changes				
1310 Department wide				
***56* Abolish Position**	($59,325)	R	($59,325)	R
Abolishes vacant Business/Technical Applyst position (Pos. No. 3004-0400-0000-584).	-1.00		-1.00	
Total Legislative Changes	**($59,325)**	R	**($59,325)**	R
Total Position Changes	-1.00		-1.00	
Revised Budget	**$5,870,735**		**$5,877,440**	

State Budget and Management - Special

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$4,938,446**		**$4,938,446**	
Legislative Changes				
1023 Fire Protection Grants				
57 **Fire Protection Grants-in-Aid Supplement** Funds are provided to increase the funding for the Fire Protection Grants-in-Aid program. Many new state-owned facilities have been constructed statewide. This funding will assist local fire districts that provide fire protection and other services to state-owned facilities.	$300,000	NR		
1900 Reserves and Transfers				
58 **Reserve for Military Morale, Recreation, Welfare** Funds are provided to a Reserve for the Military Morale, Recreation, and Welfare Fund to be distributed to each military installation on a per capita basis.	$1,000,000	NR		
59 **Earned Income Tax Credit Outreach** Provides funding to the EITC Carolinas Initiative at MDC, Inc., to support free tax preparation and outreach efforts associated with the earned income tax credit for low-income North Carolina taxpayers.	$50,000	NR		
60 **Internal Audit and Efficiency Review** Provides funds for the establishment of an Internal Audit and Efficiency Review Program contingent upon the enactment of House Bill 1401 or similar legislation.	$683,000	R	$683,000	R
Total Legislative Changes	**$683,000** **$1,350,000**	R NR	**$683,000**	R
Total Position Changes				
Revised Budget	**$6,971,446**		**$5,621,446**	

State Controller

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$20,646,483		$20,669,990	
Legislative Changes				
1000 Administration				
***61* Internal Control Compliance**	$165,043	R	$165,043	R
Funding is provided for one Advanced State Management Analyst ($66,425) and one Standard State Management Analyst ($60,620) in Risk Mitigation Services to perform internal control compliance reviews in accordance with statutory provisions. Funding will include operating support for professional education and specialized training.	$6,000 2.00	NR	 2.00	
1000 Department wide				
***62* Reduce Operating Budget**	($107,335)	R	($107,335)	R
Reduces the following line items each fiscal year:				

Recurring	FY2007-08	FY2008-09
532146 Mainframe Support Serv	($ 50,000)	($ 50,000)
532718 Trans Oth-Out of State	($ 100)	($ 100)
531821 Computer/Data Process	($ 55,735)	($ 55,735)
534530 Other DP Equipment	($ 1,500)	($ 1,500)
Total Recurring	($107,335)	($107,335)

Total Legislative Changes	**$57,708** **$6,000**	R NR	**$57,708**	R
Total Position Changes	2.00		2.00	
Revised Budget	**$20,710,191**		**$20,727,698**	

Treasurer

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$9,218,372		$9,227,432	
Legislative Changes				
1210 Investment Management				
***63* Reduce Operating Budget**	($63,000)	R	($63,000)	R
Reduces the operating budget for the following line items:				

Recurring	FY2007-08	FY2008-09
532199 Misc Contract Services	$ 10,200	$ 10,200
5327XX Travel	$ 25,000	$ 25,000
532821 Computer/Data Process	$ 2,000	$ 2,000
532840 Postage	$ 4,000	$ 4,000
532920 Bonding	$ 3,000	$ 3,000
532942 Other Emp Educational	$ 4,800	$ 4,800
534530 Other DP Equipment	$ 4,000	$ 2,000
535830 Membership Dues	$ 10,000	$ 10,000
Total Recurring	$ 63,000	$ 63,000

***64* Staff Expansion**	$210,758	R	$210,758	R
Funding is provided to establish three Investment Analyst positions ($55,448 each) in the Investment Management Division for the Alternatives, Real Estate, and Public Equity fund asset classes.	$12,000 3.00	NR	 3.00	

Recurring	FY2007-08	FY2008-09
531211 Salaries	$166,344	$166,344
531511 Social Security	$ 12,725	$ 12,725
531521 Retirement	$ 11,877	$ 11,877
531561 Medical Insurance	$ 11,562	$ 11,562
532712 Trans Air-Out of State	$ 4,425	$ 4,425
532722 Lodging-Out of State	$ 2,700	$ 2,700
532725 Meals-Out of State	$ 375	$ 375
533110 Office Supplies	$ 750	$ 750
534511 Furniture	$ 4,500	$ 0
534521 Office Equipment	$ 7,500	$ 0
Total Recurring	$222,758	$210,758

1310 Local Government

***65* Reduce Operating Budget**	($49,000)	R	($49,000)	R
Reduces the operating budget for the following line items:				

Recurring	FY2007-08	FY2008-09
532840 Postage	$ 7,000	$ 7,000
532850 Print, Bind, Duplicate	$ 35,000	$ 35,000
532942 Other Emp Educational	$ 7,000	$ 7,000
Total Recurring	$ 49,000	$ 49,000

1410 Retirement Operations

66 **Eliminate Continuation Budget Increase**

Eliminates the recurring amount of $1,221,429 in the continuation budget for Financial/Audit Services to reflect the Service Audit Team's expenditures.

67 **Audit State Employee Service Records**

Nonrecurring receipts in the amount of $1,200,000 for FY 2007-08 are authorized for financial/audit services to audit State employee service records.

68 **Online Retirement Benefits through Integrated Tech**

Nonrecurring funding is provided for the next two years of the ORBIT project. The General Assembly provided funds for the first three years of the project. All expenditures will be funded with receipts.

Recurring	FY2007-08	FY2008-09
531212 Salaries- Receipt	$ 15,000	$ 0
531512 Social Security	$ 1,365	$ 0
531522 Retirement	$ 1,071	$ 0
531562 Medical Insurance	$ 964	$ 0
532140 Other Information Tech	$491,629	$1,564,775
532441 Maint Agree-Other Softwa	$ 0	$ 231,650
532840 Postage	$118,702	$ 18,702
532850 Print, Bind, Duplicate	$ 30,000	$ 0
Total Recurring	$658,731	$1,815,127

2110 Health and Wellness Trust Fund Admin

69 **Abolish Positions**

Two receipt-supported positions within the Health and Wellness Trust Fund are eliminated. A Res. Director/Childhood Obesity (Position # 3470-2611-2346-968) and a Health Disparities Program Director (Position #3470-2611-2346-984) are abolished. The total salary is $119,978 plus the fringe benefits of $25,453, for a total cut of $145,431.

Total Legislative Changes	**$98,758**	**R**	**$98,758**	**R**
	$12,000	**NR**		
Total Position Changes	3.00		3.00	
Revised Budget	**$9,329,130**		**$9,326,190**	

Treasurer - Retirement for Fire and Rescue

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$9,165,457		$9,165,457	
Legislative Changes				
1412 Gen. Fund Contribution to Fire Pension Fund				
***70* Increase Retirement Benefits** Increases the benefits in the Fireman's and Rescue Squad Workers' Pension Fund from $165 to $167 per month for retirees and future retirees effective July 1, 2007.	$293,500	R	$293,500	R
Total Legislative Changes	**$293,500**	R	**$293,500**	R
Total Position Changes				
Revised Budget	**$9,458,957**		**$9,458,957**	

TRANSPORTATION
Section K

Highway Fund

	HIGHWAY FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	$1,769,403,262		$1,772,720,398	
Legislative Changes				
Administration				
1 **Reduction to Administrative Budgets** Reduces funds for central administration within the Department of Transportation.	($11,749,430)	NR	($10,000,000)	NR
2 **Interstate 40 Resurfacing Project** Provides funds to pay for the Interstate 40 repairs in Durham County.	$11,749,430	NR	$10,000,000	NR
3 **Security Management**	$235,262	R	$235,262	R
Provides funds for security management equipment for 31 DMV locations and integration of those locations into the DOT security management system.	$2,264,738	NR		
4 **Upgrade Printing Services** Provides funds to upgrade and consolidate two separate printing service operations for DOT and DMV into a single printing contract.	$1,500,000	R	$1,500,000	R
5 **Printing and Production** Provides additional funds for printing the North Carolina state highway map and the coastal boating guide.	$225,000	R	$225,000	R
6 **Mail Equipment**	$19,000	R	$19,000	R
Provides funds to upgrade DMV mail equipment, including mail inserters and postage meters.	$361,000	NR		
7 **ITS Enterprise Fee** Provides funds for payment of the Enterprise Fee implemented by the Office of Information Technology Services.	$404,000	R	$404,000	R
Aeronautics Division				
8 **Rural Airport Development** Increases funds for the grant program that assists rural airports with capital improvement projects.	$2,000,000	R	$1,677,782	R
9 **Aircraft Fleet Upgrade** Provides funds to purchase one King Air or equivalent aircraft. This aircraft will replace a Cessna Conquest turbo prop aircraft.	$3,400,000	NR		

	FY 07-08		FY 08-09	
Bicycle Program				
10 **Regional Bicycle Planning** Provides funds for financial and technical assistance to counties, metropolitan planning organizations, and rural planning organizations for regional bicycle plans.	$500,000	R	$500,000	R
Division of Motor Vehicles				
11 **Driver License Secure ID and Card Production System**	$1,437,760	R	$1,437,760	R
Funds 36 positions for implementation of a new driver license secure ID and card production system. The new system is being designed to comply with the U.S. Real ID Act and HB 267 standards.	$162,240 36.00	NR	 36.00	
12 **Driver License System Enhancements**	$640,000	R	$640,000	R
Reserves funds for development of system enhancements to allow the State Automated Driver License System to interface with the new digitized Driver License System.				
13 **Unified Carrier Registration/CDL Changes**				
Increases funds for the DMV to conduct significant technology upgrades and required interfacing with the International Registration Program/Motor Carrier program. These funds shall not be expended unless HB 769 or substantially similar legislation is enacted during the 2007 General Assembly.	$2,974,000	NR		
14 **License Plate Recall**	$99,000	R	$99,000	R
Provides funds for replacement of older license plates that are often in poor condition and for a continuous license plate recall program.	$183,199	NR		

	FY 07-08		FY 08-09	
Employee Benefits				
15 **State Health Plan** Provides funding based on the recommendations of the Executive Administrator of the State Health Plan. The Executive Administrator's recommendations include funding the Plan's additional financial requirements for the biennium through increased premiums paid by employing agencies and plan members with dependent coverage, certain benefit reductions and enhancements, cost containment actions recommended by the Plan's staff, and elimination of the self-insured Indemnity plan effective July 1, 2008. The funding appropriated supports, effective October 1, 2007, an 11.2% premium increase for the PPO programs to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the Highway Fund for the biennium. The funding appropriated also supports, effective October 1, 2007, an 11.4% premium increase for the Indemnity plan to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the Highway Fund during the 2007-2008 fiscal year.	$5,141,943	R	$5,734,876	R
16 **State Funded Compensation Increase** Increases funds to support a 4% annual salary increase for permanent employees whose salaries are supported by Highway Fund appropriations.	$20,453,968	R	$20,453,968	R
17 **Retirement System Contribution** Increases the State's contribution for FY07-09 to provide a 2.2% cost-of-living adjustment to retirees of the Teachers' and State Employees' Retirement System. This adjustment is funded in part with actuarial gains within the system.	$1,723,800	R	$1,723,800	R
Ferry Division				
18 **Maintenance Repair Costs** Increases funds for repairs and service parts necessary to maintain the fleet of ferries and these funds shall be used to supplement on-going ferry operations.	$1,000,000	R	$1,000,000	R
19 **Ferry Boats and Operations** Increases funds to upgrade rescue boats and generators to meet new United States Coast Guard requirements. Funds will also be used for booster pumps for use in dredge operations, rail cars at the maintenance facility and to complete renovation projects.	$3,550,000	NR	$3,550,000	NR
20 **Training and License Renewals** Increases funds for training and license renewals of Ferry Division vessel personnel so that required United States Coast Guard licenses are maintained.	$100,000	R	$100,000	R

	FY 07-08		FY 08-09	
21 **Ferry Division Personnel**	$1,800,000	R	$1,800,000	R
Increases funds to hire 40 licensed positions to meet US Coast Guard regulations for staffing.	40.00		40.00	
Maintenance				
22 **Contract Resurfacing**				
Increases funds for contract resurfacing to help offset increased material costs for resurfacing projects.	$2,302,032	NR	$2,554,652	NR
23 **General Maintenance Reserve**				
Increases funds for general maintenance to recover highway system from storm related damages from federally undeclared tropical storms Alberto and Ernesto.	$1,046,475	NR	$2,182,402	NR
24 **System Preservation**				
Provides funds for highway maintenance activities that preserve and extend the life of infrastructure assets, including pavements, bridges, and traffic signal systems.	$1,362,230	NR	$4,287,864	NR
Public Transportation Division				
25 **Reduction in New Starts Program**				
Reduces funding for the State's New Starts program. The reduction represents decreased expenditures for the Triangle Transit Authority's commuter rail project.	($23,400,000)	NR	($23,400,000)	NR
26 **Operating Funds**	($1,200,000)	R	($1,200,000)	R
Reduces funding for the Public Transportation Grant program.				
27 **Transportation Services for Trade Shows**	$1,200,000	R	$1,200,000	R
Provides funding for transportation services for annual or semiannual trade shows of international significance.				
28 **Urban and Regional Program**	$2,000,000	R	$1,677,782	R
Provides increased funding for the State Maintenance Assistance Program which helps regional and urban areas pay for public transportation fixed-route and dial-a-ride services not covered by federal funding.				
Rail Division				
29 **Grants to Short-Line Railroads**				
Provides funds to continue the grant program supporting short-line railroad companies. The funds are used to rehabilitate and strengthen North Carolina's short-line infrastructure.	$1,000,000	NR		
30 **Freight Rail Operations Streamlining**				
Provides funds to relocate or construct new tracks and rail interchange facilities to streamline freight traffic flows.	$3,850,000	NR	$3,229,730	NR

	FY 07-08		FY 08-09	
Small Construction				
31 **Economic Development**				
Provides additional nonrecurring funds for economic development, spot safety, and transportation improvement projects.	$14,000,000	NR		
State Highway Patrol				
32 **Helicopter for Aviation Unit**				
Provides funds to replace an obsolete helicopter and establish a dedicated airborne unit that can perform search and rescue operations during disasters.	$3,600,000	NR		
33 **VIPER Network Support**	$2,261,839	R	$2,261,839	R
Creates additional positions to support the Voice Interoperability Plan for Emergency Responders (VIPER) system	24.00		24.00	
34 **Trooper Positions**	$266,988	R	$547,326	R
Funds five additional trooper positions in each fiscal year of the biennium for a total of 10 new trooper positions.	$229,870	NR	$229,870	NR
	5.00		10.00	
Statutory Adjustments				
35 **Leaking Underground Storage Tank Fund**	$300,000	R	$350,000	R
Adjusts budget for the Leaking Underground Storage Tank Fund based on projections for the gasoline inspection fee in accordance with G.S. 119-18. Total budget for the Department of Revenue (tax collection), the Department of Agriculture (inspection) and the Leaking Underground Storage Tank Funds is $15,100,000 in FY07-08 and $15,110,000 in FY08-09.				
36 **Secondary Maintenance**	$16,512,027	R	$16,512,027	R
Increases funds for Secondary Maintenance Program and eliminates the designation of Urban Maintenance as required by HB747 in 2005 Session.				
37 **Primary Maintenance**	$24,768,040	R	$24,768,040	R
Increases funds for Primary Maintenance Program and eliminates the designation of Urban Maintenance as required by HB747 in the 2005 Session.				
38 **Urban Maintenance**	($41,280,067)	R	($41,280,067)	R
Eliminates funding in the category of Urban Maintenance and moves it to Primary and Secondary Maintenance. This change is required per HB747 from 2005 Session.				
39 **Aid to Municipalities**	$818,587	R	$837,278	R
Adjusts funding for Aid to Municipalities based on revised projections in accordance with G.S. 136-41.1. Funding will be $93,046,035 in FY07-08 and $93,073,049 in FY08-09.				

	FY 07-08		FY 08-09	
40 **Secondary Road Construction Program** Adjusts funding for secondary road construction based on revised projections in accordance with G.S. 136-44.2(a). Funding will be $93,046,035 in FY07-08 and $93,073,049 in FY08-09.	$818,587	R	$837,278	R
Transfers and Other Adjustments				
41 **General Fund Transfer** Transfers funds to the General Fund as required by G.S. 105-164.44D. The transfer is reimbursement to the General Fund for sales tax exemption for purchases by the Department of Transportation. The total amount transferred is $18,190,000 in FY07-08 and $17,610,000 in FY08-09.	$2,023,600	R	$1,443,600	R
42 **Leaking Underground Storage Tank Fund Reduction** Reduces funding to the Leaking Underground Storage Tank Fund to support one newly created position within the Department of Agriculture and Consumer Services. The position will be an LP-Gas Inspector	($41,014) ($26,056)	R NR	($41,014)	R
43 **LP-Gas Inspector Position** Transfers funds from the Highway Fund to the Department of Agriculture and Consumer Services for the support of one LP-Gas and Equipment Inspector Position	$41,014 $26,056 1.00	R NR	$41,014 1.00	R
44 **Chemical Test Program - Correction to Continuation Budget** Provides funds for this program within the Department of Health and Human Services.	$51,620	R	$51,620	R
45 **Driver Education Program - Correction to Continuation Budget** Provides funds for the Department of Public Instruction for the driver training program in FY2008-09.	$0	R	$77,913	R
Total Legislative Changes	**$45,820,954** **$16,885,784**	R NR	**$45,635,084** **($7,365,482)**	R NR
Total Position Changes	106.00		111.00	
Revised Budget	**$1,832,110,000**		**$1,810,990,000**	

Highway Trust Fund

	HIGHWAY TRUST FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$1,132,060,000**		**$1,149,270,000**	
Legislative Changes				
Highway Trust Fund				
***46* Transfer to General Fund** Increases transfer to General Fund in FY 2008-09 consistent with new revenue estimates and statutory formula. Transfer is $172,543,306 in FY 2007-08 and $172,675,038 in FY 2008-09.	$0	R	$75,774	R
***47* Administration** Increases funds for administration to $47,341,560 in FY 2007-08 and $47,782,560 in FY 2008-09 consistent with new revenue estimates and statutory formula, as changed in HB1473.	$4,422,080	R	$4,212,900	R
***48* Intrastate System** Reduces funds for the Intrastate System to $539,414,383 in FY 2007-08 and $544,982,323 in FY 2008-09 consistent with new revenue estimates and statutory formula.	($4,961,364)	R	($9,030,672)	R
***49* Urban Loops** Reduces funds for the Urban Loops to $218,116,712 in FY 2007-08 and $220,368,154 in FY 2008-09 consistent with new revenue estimates and statutory formula.	($2,006,169)	R	($3,651,629)	R
***50* Aid to Municipalities** Reduces funds for Aid to Municipalities to $56,597,151 in FY 2007-08 and $57,181,357 in FY 2008-09 consistent with new revenue estimates and statutory formula.	($520,563)	R	($947,529)	R
***51* Secondary Road Construction** Reduces funds for Secondary Road construction to $94,266,888 in FY 2007-08 and $95,790,568 in FY 2008-09 consistent with new revenue estimates and statutory formula.	($713,984)	R	($1,148,844)	R
Total Legislative Changes	**($3,780,000)**	R	**($10,490,000)**	R
Total Position Changes				
Revised Budget	**$1,128,280,000**		**$1,138,780,000**	

RESERVES/ DEBT SERVICE/ ADJUSTMENTS Section L

Statewide Reserves

	GENERAL FUND			
	FY 07-08		FY 08-09	
Adjusted Continuation Budget	**$666,637,384**		**$699,343,864**	
Legislative Changes				
A. Employee Benefits				
1 **State Funded Compensation Increases** Provide funds to support salary increases for employees of State agencies, departments and universities, community college institutions, and public schools.	$488,655,673 $1,668,519	R NR	$488,655,673	R
2 **Public School Salary Increases** Certified Teaching, School Based Administrators and Non-certified Personnel in local Public Schools, State agency based Public Schools, and the NC School of Science and Mathematics. Teachers and Instructional Support - Funds are provided to support an experience based step increase for teachers and instructional support personnel (average salary increase of 1.83%) and a flat annual increase in the base teacher salary schedule of $1,240 for the 2007-09 biennium (total average increase of 5%). New Teachers and Instructional Support who are paid at step 0 of the experience based salary schedule will receive a $250 sign on bonus payable if they are employed the full school year. Principals and Assistant Principals - Funds are provided to support an experience based step increase for school board administrators (average salary increase of 1.67%) and a flat annual increase in the school based administrators salary schedule for the 2007-09 biennium (total average increase of 4.44%). School based administrators who are at the top of the experience based salary schedule will receive a 2% one-time lump sum bonus. All other Public School Personnel - Provide funds to support a 4% annual salary increase.				
3 **Community College Salary Increases** Faculty and Professional Staff - Provide funds to support a 5% annual salary increase. All other Community College Personnel - Provide funds to support a 4% salary increase.				

	FY 07-08		FY 08-09	
4 University Salary Increases EPA faculty - Provide funds to support a 5% annual salary increase. EPA non-faculty - Provide funds to support a 4% annual salary increase. All other University Personnel - Provide funds to support a 4% annual salary increase.				
5 State Agency/Department Salary Increases Provide funds to support a 4% annual salary increase for permanent employees of State agencies and departments.				
6 Additional Salary Increases to Judges Provides funds to support an additional one percent (1.0%) salary increase for judges (total increase of 5%).				
7 Additional Salary Increase for Teacher Assistants Provides funding to increase salaries of teacher assistants to the minimum salary of salary grade 56. Teacher assistants currently earning salary equal to or greater than the minimum salary of salary grade 56 are not to receive an additional increase.	$1,150,240	R	$1,150,240	R
8 Add Additional Step to the Public School Teacher Salary Schedule Provide funds to add a 31+ step to the Public School teacher salary schedule. The 31+ step is 2% higher than the current 30+ step.	$9,862,065	R	$9,862,065	R
9 Add An Additional Step to the Judicial Longevity Schedule Provide funds to add one additional step to the Judicial longevity schedule; a 25 year step at 24%.	$566,643	R	$566,643	R
10 Retirement System Contributions Increases the State's contribution for the 2007-09 biennium to provide a 2.2% cost-of-living adjustment for retirees of the Teachers' and State Employees' Retirement System. This adjustment is funded in part with actuarial gains within the Retirement System.	$35,705,000	R	$35,705,000	R
11 Retirement System Payback Continue repayment of the funds withheld from the Retirement System in FY 2000-01 due to the budget crisis. This is the fifth installment of the five-year payback.	$45,000,000	NR		

	FY 07-08		FY 08-09	
12 **Transfer Public Defenders to the Consolidated Judicial Retirement System** Provide funds to transfer public defenders, the appellate defender, the capital defender, and the juvenile defender to the Consolidated Judicial Retirement System effective July 1, 2007. Also transfers service as a public defender, appellate defender, capital defender, or juvenile defender from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System	$573,000	R	$573,000	R
13 **State Health Plan - Premium Increase & Eliminate Indemnity Plan** Provides funding based on the recommendations of the Executive Administrator of the State Health Plan. The Executive Administrator's recommendations include funding the Plan's additional financial requirements for the biennium through increased premiums paid by employing agencies and plan members with dependent coverage, certain benefit reductions and enhancements, cost containment actions recommended by the Plan's staff, and elimination of the self-insured Indemnity plan effective July 1, 2008. The funding appropriated supports, effective October 1, 2007, an 11.2% premium increase for the PPO programs to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the General Fund for the biennium. The funding appropriated also supports, effective October 1, 2007, a 11.4% premium increase for the Indemnity plan to provide additional funding to continue non-contributory health benefit coverage for enrolled active and retired employees supported by the General Fund during the 2007-2008 fiscal year.	$110,184,490	R	$122,890,207	R
B. Debt Service				
14 **Debt Service** Provides for the revised estimate of needs based on later projections of authorized debt.	($11,233,632)	R	($7,863,147)	R
15 **Adjustment to Debt Service Requirements** Provides for the additional cost associated with the 2007-08 capital improvement projects to be financed with Certificates of Participation.			$13,080,570	R
C. Information Technology				
16 **BEACON - HR/Payroll System Replacement** Provides funding to complete the new HR/Payroll System to meet the January 1, 2008, implementation date. Total requirements are $22,964,346, of which $2,964,346 can be supported from existing receipts received from the Highway Fund.	$20,000,000	NR		

	FY 07-08		FY 08-09	
17 **BEACON - HR/Payroll System Additional Modules** Provides funds to implement the E-Recruitment and Learning Solutions/Training Management modules for the new HR/Payroll System. These modules will be implemented in SFY 2008-09 and can be supported from existing Highway Fund receipts in SFY 2007-08 in the amount of $7,390,000.				
18 **BEACON - Financial Systems Replacement** Provides funds to begin Phase 2 of the BEACON Project, which includes replacing the State's budget preparation, budget reporting, cash management, and accounting systems. Planning for the project would begin on SFY 2007-08 to capture the business requirements and develop a request for proposal. Planning can be supported from existing Highway Fund receipts in the amount of $1,500,000.				
19 **BEACON/Data Integration Funds** Provides funding to the IT Fund to develop a plan for a statewide data integration initiative to be implemented under the governance of the BEACON Project Steering Committee.	$5,000,000	NR	$5,000,000	NR
20 **Integrated Tax Administration System Replacement** Provides funding to replace the Integrated Tax Administration System. For SFY 2007-2008, $15,000,000 is to be funded from fees collected through Project Collect Tax.	$5,000,000	NR		
D. Other Reserves				
21 **Reserve for Eliminated Positions** Establishes a reserve, to be administered by the Office of State Budget and Management, for the elimination of vacant state government positions as specified in Section 6.17.	($10,038,466)	R	($10,038,466)	R
Total Legislative Changes	**$625,425,013**	**R**	**$654,581,785**	**R**
	$76,668,519	**NR**	**$5,000,000**	**NR**
Total Position Changes				
Revised Budget	**$1,368,730,916**		**$1,358,925,649**	

CAPITAL
Section M

Capital

	GENERAL FUND	
	FY 07-08	FY 08-09
Legislative Changes		
A. Department of Administration		
1 **Deerfield Cottage Renovation**		
Provides capital funds for the comprehensive renovation of Deerfield Cottage. The building is currently part of John Umstead State Psychiatric Hospital. The facility will house a program for female inmates and their children through a proposed contract between a non-profit agency and the Department of Correction. The total project cost is $3.5 million.	$3,556,000 NR	
2 **State Capital Visitors Center/Plaza/Underground Parking Facility**		
Provides capital planning funds for the proposed State Capital Visitors Center, public plaza and underground parking. The Department of Administration will work with the Department of Cultural Resources regarding the design of the Visitors Center. The project cost is $28 million.	$627,281 NR	
B. Department of Cultural Resources		
3 **NC Museum of History Chronology Exhibit Phase I**		
Provides capital funds for the construction of the NC Museum of History's Chronology Exhibit which will cover the State's history through the year 1900. The total project cost is $6.3 million.	$6,322,900 NR	
4 **Horne Creek Farm Visitors Center**		
Provides capital funds for the construction of a Visitors Center at Horne Creek Farm. The State attraction does not currently have a visitors center. The total project cost is $442,100.	$442,100 NR	
C. Information Technology Services		
5 **Secondary Data Center Equipment**		
Provides equipment funds for completing the construction of the State's Secondary Data Center. The General Assembly authorized $25 million in special indebtedness for the construction of the Data Center in FY 2006-07. The total project cost is $33 million.	$8,000,000 NR	

D. Department of Correction

6 NC Correctional Institution for Women - Health Care Facility

Provides capital funds for planning and site development of the Health Care Facility at the NCCIW. The proposed facility will increase infirmary beds from 28 to 70 beds. Mental health beds will be increased from 28 to 80 beds. The size of the facility will be up to 106,815 square feet and a project cost of $41.4 million. The cost of the facility will be offset by $1.63 million in departmental receipts.

$5,000,000 NR

7 Capital Planning Reserve for Prison Additions

Provides capital planning funds for the design of prototypical additions to Scotland Correctional Institution (medium security), Bertie Correctional Institution (medium security), Lanesboro Correctional Institution (minimum security), and Tabor Correctional Institution (minimum security).

$3,497,557 NR

E. Crime Control and Public Safety

8 Statewide Department Master Plan Phase I

Provides capital planning funds to update CCPS's master facility plans statewide. This is the first of five phases. The cost is offset by $290,200 in federal funds.

$280,294 NR

9 Camp Butner Land Buffers

Provides capital funds to acquire land and development rights to land surrounding Camp Butner in Granville County. The land is intended to buffer the Department's training sites from encroaching development. This the first of five phases.

$117,800 NR

F. Department of Justice

10 Western Justice Academy Firing Range

Provides capital funds for the construction of a firing range and associated facilities at the Western Justice Academy. The total project cost is $1,974,103.

$1,974,103 NR

G. DJJDP

11 Dillon Youth Development Center Maintenance Building

Provides capital funds for the construction of a maintenance building at Dillon YDC. The total project cost is $375,000.

$375,000 NR

12 Five New Youth Development Centers

Provides capital planning funds for the proposed five new 32 bed Youth Development Centers. The total cost for the five facilities is $37 million.

$1,500,000 NR

H. Department of Agriculture and Consumer Services

13 Western Agricultural Center Phase I

Provides capital funds for the construction of a 12,000 square foot Arts and Crafts Building at a project cost of $3 million; and 40,000 square feet of space for a new Livestock Show area at a project cost of $2 million. — $5,000,000 NR

14 Eastern Agricultural Center

Provides capital funds for the construction of a horse barn at the Senator Bob Martin Eastern Agricultural Center. The total project cost is $3 million. — $3,000,000 NR

15 Food and Drug Laboratory Chillers

Provides capital funds for the purchase and installation of two 250-ton chillers for Constable Laboratory. The total cost for this project is $690,865. — $690,865 NR

I. Department of Commerce

16 NC Ports Improvements

Provides capital funds for the replacement of Berth 8 at the Port of Wilmington. The total project cost is $51.6 million. Funding is also provided for berth structure improvements for a new transit shed at the Port of Morehead City. The total project cost is $3.27 million. — $7,500,000 NR

J. Dept. of Natural and Environmental Resources

17 Green Square Project

Provides capital funds for the planning, site development, and early construction of a 172,000 square foot office building for DENR; a 79,400 square foot expansion of the NC Museum of Natural Sciences, and 418 spaces of underground parking. The total cost for the project is $118.25 million. The Friends of the Museum will offset $15.5 million of the project cost for exhibit materials and equipment. The Friends of the Museum have also committed to raise $27.5 million toward the cost of construction of the Museum expansion. — $25,000,000 NR

18 Division of Water Quality Modular Office

Provides capital funds for the construction of a 2,160 square foot modular office building for the DWQ Lab in Raleigh. The total project cost is $252,200. — $252,200 NR

19 NC Zoo Horticulture Storage Facility

Provides capital funds for the construction of a 10,000 square foot steel storage shed to house the Zoo's horticulture operation. The total project cost is $450,000. — $450,000 NR

20 NC Zoo Plains Barns and Paddocks

Provides capital funds for the construction of barns, paddocks, and support space for the Plains Exhibit. The total cost for this project is $3 million. — $3,006,000 NR

21 Division of Forest Resources Ashe County Headquarters — $708,000 NR

Provides capital funds for the construction of DFR headquarters facilities in Ashe County. Facilities will provide office, storage, and equipment shop space. The total project cost is $708,000.

22 Division of Forest Resources Buncombe County Headquarters — $292,000 NR

Provides capital funds for the construction of DFR headquarters facilities in Buncombe County. Facilities will provide office, storage, and equipment shop space. The total project cost is $462,300.

There is a special provision authorizing the Department to use receipts from the sale of the existing Buncombe County headquarters toward this project.

23 Water Resources Development Projects — $20,000,000 NR

Provides funds for the State's share of Water Resources Development Projects. Projects are specified in a special provision.

L. UNC System Board of Governors

24 East Carolina University - School of Dentistry Facilities — $25,000,000 NR

Provides capital funds for planning, site development, and early construction of the proposed School of Dentistry building and 10 satellite clinics. The size of the main facility will be up to 112,500 square feet, and the project cost, including the clinics, is $90 million. The General Assembly appropriated $7 million in FY 2006-07 for the expansion of dental education in the University System. $3 million of these capital planning funds were allocated to ECU for the School of Dentistry.

25 Elizabeth City State University - Education Building — $2,000,000 NR

Provides capital planning funds for the proposed School of Education building. The size of the facility will be up to 45,000 square feet with a project cost of $20 million.

26 Elizabeth City State University School of Aviation Complex — $500,000 NR

Provides capital planning funds for the proposed School of Aviation Complex at Elizabeth City State University. The total cost for this project is $15 million.

27 NC Agricultural and Technical University General Classroom Building — $5,300,000 NR

Provides capital funds for the planning and site development of a general classroom and instructional building. The size of the facility will be up to 71,200 square feet and a project cost of $26.8 million. The General Assembly appropriated $1 million for this project in FY 2006-07.

28 **North Carolina Central University Nursing Building**

Provides capital planning funds for the proposed School of Nursing building. The size of the facility will be up to 65,000 square feet with a project cost of $24 million. — $2,500,000 NR

29 **NC School of Science of Mathematics - Discovery Center**

Provides capital planning funds for the proposed multi-purpose Discovery Center building. The Center will provide classroom, lab, and assembly space, including a 200 bed student residence hall. The size of the facility will be up to 250,000 square feet with a project cost of $70.4 million. — $3,337,000 NR

30 **NC State University - Centennial Campus Library**

Provides capital funds for planning and utility-related construction of the James B. Hunt Library on Centennial Campus. The size of the facility will be up to 279,000 square feet with a project cost of $114 million. — $17,000,000 NR

31 **UNC-Chapel Hill - School of Dentistry Addition**

Provides capital funds for planning, site development, and early construction of the proposed addition to the School of Dentistry. The addition will be up to 216,414 square feet and a project cost of $125 million. The project cost will be offset by $26 million in receipts from the University. The General Assembly appropriated $7 million in FY 2006-07 for the expansion of dental education in the University System. $3 million of these capital planning funds were allocated to ECU for the School of Dentistry. — $25,000,000 NR

32 **UNC-Chapel Hill Biomedical Research Imaging Center**

Provides capital planning funds for the proposed Biomedical Research Imaging Center (BRIC). The size of the facility will be up to 275,000 square feet with a project cost of $135 million. — $8,000,000 NR

33 **UNC-Charlotte Energy Production Infrastructure Center**

Provides capital funds for the planning and site development of the Energy Production Infrastructure Center (EPIC). The size of the facility will be up to 200,000 square feet with a project cost of $76.2 million. — $19,000,000 NR

34 **UNC-Greensboro Education Building**

Provides capital planning funds for a 120,000 square foot Education classroom and office building at UNCG. The total project cost is $47.5 million. The General Assembly appropriated $2.3 million for this project in FY 2006-07. — $2,500,000 NR

35 **Winston Salem State University - Science and General Office Building**

Provides capital planning funds for the proposed Science and General Office building. The size of the facility will be up to 69,000 square feet with a project cost of $28.2 million. — $3,312,000 NR

36 Improvements to 4-H Camps — $7,500,000 NR

Provides capital funds for the repair, renovation, and construction of 4-H camp facilities throughout the State. Eligible facilities are located on 4-H camps owned by the State and allocated to NCSU. The total construction plan is estimated to cost $34 million.

37 UNC Reserve for Land Acquisition — $5,000,000 NR

Provides capital funds for the acquisition of State land for campuses throughout the system. The reserve will be administered by UNC General Administration, at the discretion of the President.

M. State Facilities Special Indebtedness

38 Alexander Correctional Institution - Minimum Security Addition

Authorizes the issuance of certificates of participation for the design and construction of a 252 bed minimum security addition to Alexander Correctional Institution. The size of the facility will be up to 50,000 square feet with a project cost of $13.2 million. The total debt authorized is $13,191,300.

39 Scotland Correctional Institution Medium Security Addition

Authorizes the issuance of certificates of participation for the design and construction of a 504 bed medium security addition to Scotland Correctional Institution. The size of the facility will be up to 78,000 square feet with a project cost of $19.8 million. The total debt authorized is $19,816,500.

40 Department of Cultural Resources Tryon Palace Education and Visitors Center

Authorizes the issuance of certificates of participation for the construction of an Education and Visitors Center at Tryon Palace. The Department plans to have the project completed in time for the 300th anniversary of New Bern. The size of the facility will be up to 45,000 square feet with a project cost of $60.6 million. The General Assembly appropriated $1.5 million for this project in FY 2006-07. The project cost will be offset with $13.7 million in departmental receipts. The total debt authorized is $35,000,000.

41 Appalachian State University - Education Building

Authorizes the issuance of certificates of participation for the construction of the College of Education building. The size of the facility will be up to 130,000 square feet with a project cost of $35.8 million. The General Assembly appropriated $1.82 million in FY 2006-07. Total debt authorized is $34,000,000.

42 Fayetteville State University Science and Technology Complex

Authorizes the issuance of certificates of participation for the construction of a Science and Technology Complex at FSU. The size of the facility will be up to 75,000 square feet with a project cost of $23.6 million. The General Assembly appropriated $1 million for this project in FY 2006-07. Total debt authorized is $22,587,000.

43 NC School of the Arts Library

Authorizes the issuance of certificates of participation for the construction of a campus library at NCSA. The size of the facility will be up to 97,000 square feet with a project cost of $25.9 million. The General Assembly appropriated $1 million for this project in FY 2006-07. Total debt authorized is $24,920,000.

44 NC State University Companion Animal Hospital

Authorizes the issuance of certificates of participation for the construction of Randall B. Terry Companion Animal Hospital on the Centennial Biomedical Campus at NCSU. The size of the facility will be up to 115,000 square feet with a project cost of $72 million. NCSU will offset $34 million of the project cost with gifts and other available receipts. Total debt authorized is $38,000,000.

45 NC State University - College of Engineering, Phase 1

Authorizes the issuance of certificates of participation for the construction of phase 1 of the proposed College of Engineering facilities at Centennial Campus. The project consists of a 65,000 square foot addition to Engineering Building III at a project cost of $34 million. Total debt authorized is $34,000,000.

46 UNC-Asheville - Rhoades Hall and Rhoades Tower Renovation

Authorizes the issuance of certificates of participation for the comprehensive renovation of Rhoades Hall and Rhoades Tower. The total cost for this project is $8.9 million. The General Assembly appropriated $416,000 in repair and renovation funds for this project in FY 2006-07. Total debt authorized is $8,687,000.

47 UNC-Chapel Hill Genomics Science Building

Authorizes the issuance of certificates of participation for the construction of phase II of the Genomics Science Building in the Science Complex South. The size of project will be up to 210,000 square feet and a project cost of $160 million. The General Assembly appropriated $28.4 million to this project in FY 2006-07. The project cost will be offset by $12 million in receipts from the University. Total debt authorized is $119,608,225.

48 UNC-Pembroke Nursing Building Supplement

Authorizes the issuance of certificates of participation to supplement the construction of a Nursing and Allied Health Building at UNCP. Special indebtedness was first authorized for this capital project through S.L. 2006-146 at $10 million. The size of the facility will be up to 50,000 square feet with a project cost of $30.2 million. Total debt authorized is $19,000,000.

49 UNC-Wilmington Teaching Laboratory Building

Authorizes the issuance of certificates of participation for the construction of a teaching laboratory building to house the Psychology and Earth Science Departments. The size of the facility will be up to 80,000 square feet with a project cost of $34.5 million. Total debt authorized is $34,525,440.

50 Western Carolina University - Health and Gerontological Building

Authorizes the issuance of certificates of participation for the construction of the Health and Gerontological Building. The size of the facility will be up to 145,200 square feet with a project cost of $46.2 million. The General Assembly appropriated $2.4 million in FY 2006-07. Total debt authorized is $41,605,000. $2.2 million is appropriated from the General Fund for FY 2007-08. $2,200,000 NR

51 Winston Salem State University - Student Activities Center

Authorizes the issuance of certificates of participation for the construction of a Student Activities Center at WSSU. The size of the facility will be up to 90,000 square feet with a project cost of $32.5 million. The General Assembly appropriated $768,225 for this project in FY 2006-07. WSSU will offset $12.9 million of the project cost through student fees. Total debt authorized is $18,708,000.

52 Millennium Campus - Nanoscience and Nanoengineering Building

Authorizes the issuance of certificates of participation for the construction of the Joint Graduate School of Nanoscience and Nanoengineering Building at the Millennium Campus. The School will be jointly operated between NC A&T and UNCG. The size of the facility will be up to 95,000 square feet with a project cost of $58 million. Total debt authorized is $53,000,000. $5 million is appropriated from the General Fund for FY 2007-08. $5,000,000 NR

53 Coastal Studies Institute

Authorizes the issuance of certificates of participation for the construction of facilities for the Coastal Studies Institute. The Institute will be jointly operated between ECU, ECSU, NCSU, UNC-CH, and UNCW. The cumulative size of the facilities will be up to 90,400 square feet with a project cost of $32.5 million. Total debt authorized is $32,500,000.

Total Appropriation to Capital	$230,741,100	NR

INFORMATION TECHNOLOGY SERVICES
Section N

Information Technology Services

INTERNAL SERVICE FUND

	FY 07-08		FY 08-09	
Legislative Changes				
A. Information Technology Operations				
1 **State Chief Information Officer (SCIO) Office** Provides funding to support the operations of the State CIOs office.	$1,090,104	R	$1,090,104	R
2 **Statewide Procurement-Legal** Provides funding for three attorneys, two assigned to the Department of Justice and one assigned to ITS.	$369,650	R	$369,650	R
3 **ISO/Security Initiatives** Provides funding to continue support for statewide security initiatives.	$2,103,121	R	$2,103,121	R
4 **Information Technology Asset Management**	$451,634	R	$451,634	R
Provides funding to support the implementation of a statewide asset management system by the Office of Information Technology Services.	$1,626,000	NR	$1,626,000	NR
5 **Enterprise Project Management Office** Continues operation of office responsible for overseeing the development and implementation of IT systems within State agencies.	$1,502,793	R	$1,502,793	R
6 **Enterprise Technology Strategies Office** Provides statewide engineering and architecture support.	$1,009,533	R	$1,009,533	R
7 **Start-up Funding: Enterprise Services** Provide funding to support the implementation of new enterprise-wide applications to support State agency operations.	$1,300,000	NR		
B. Information Technology Projects				
8 **Portfolio Management** Continues operation of Project Portfolio Management System to track agency IT projects.	$420,946	R	$420,946	R
9 **Legacy Applications** Provides funding to continue the oversight of legacy applications.	$589,428	R	$589,428	R
10 **State Portal** Provides funding for the State portal.	$422,426	R	$422,426	R

Conference Report on the Continuation, Capital, and Expansion Budget	FY 07-08		FY 08-09	
11 **NCID**	$1,585,031	R	$1,585,031	R
Provides the state with technology to support identity management, authentication, and authorization of users.				
12 **Information Technology Consolidation**	$265,334	R	$265,334	R
Provides funding to continue the Information Technology Consolidation program, adding the Department of Cultural Resources, Office of the State Controller, Department of Commerce, Department of Juvenile Justice and Delinquency Prevention, and the Industrial Commission.	$1,214,000	NR	$1,214,000	NR
13 **BEACON/Data Integration Funds**				
Provides funding to develop a plan for a statewide data integration initiative implemented under the governance of the BEACON Project Steering Committee.	$5,000,000	NR	$5,000,000	NR
Total Legislative Changes	**$9,810,000**	R	**$9,810,000**	R
	$9,140,000	NR	**$7,840,000**	NR
Total Position Changes				
Revised Budget	**$18,950,000**		**$17,650,000**	

NUMERICAL INDEX TO HOUSE AND SENATE BILLS

2007 GENERAL ASSEMBLY
2007 REGULAR SESSION
2007 EXTRA SESSION

"Ratified Number" refers to the Session Law number except when preceded by an R, in which case it refers to the Resolution number. Extra Session legislation is identified by an asterisk (*).

HOUSE BILLS

H.B.		*Ratified Number*	*H.B.*	*Ratified Number*	*H.B.*	*Ratified Number*
2	*	R69	150	173	367	301
4	*	552	151	R8	382	101
5		R1	177	476	398	319
14		425	180	17	401	226
17		295	181	18	406	28
18		292	183	261	407	40
20		429	189	38	410	49
21		212	190	R24	424	39
22		452	203	64	429	335
24		193	206	522	433	533
26		284	217	3	434	R15
27		263	226	203	435	R10
29		213	232	275	443	48
33		1	244	210	445	262
36		107	254	259	454	534
37		R2	257	244	460	R12
38		469	265	532	463	309
42		14	267	402	464	221
46		15	279	204	483	222
47		190	291	486	484	21
61		6	292	299	485	126
63		477	303	32	487	500
73		446	313	176	488	501
78		265	316	514	489	239
91		253	321	R17	491	R29
105		122	326	26	502	24
107		118	328	69	506	35
118		403	343	45	508	405
123		8	349	498	513	205
124		7	353	115	514	499
135		291	366	22	523	R20

H.B.	*Ratified Number*	*H.B.*	*Ratified Number*	*H.B.*	*Ratified Number*
530	214	701	198	895	27
535	411	705	519	915	154
536	517	714	345	922	272
537	71	720	182	925	88
538	72	726	489	941	240
548	65	729	443	942	161
550	192	730	300	943	512
552	54	731	298	947	353
554	188	735	303	956	326
555	266	737	127	958	359
562	324	748	133	966	453
563	360	749	322	973	268
564	159	765	184	976	455
568	73	767	433	986	269
571	11	769	492	987	67
573	412	772	444	995	211
579	31	773	535	1005	551
581	197	775	132	1012	12
583	166	777	431	1013	337
584	189	779	496	1017	320
588	305	784	81	1025	304
589	361	786	183	1027	340
590	171	792	223	1041	53
610	357	802	439	1053	R44
619	216	810	536	1060	430
621	74	817	163	1086	227
625	177	818	346	1089	138
627	504	820	518	1094	463
628	410	824	167	1097	241
634	502	825	460	1103	206
635	217	827	66	1110	347
638	215	828	R27	1111	348
642	230	833	246	1112	109
645	150	836	87	1120	207
646	306	842	344	1132	229
648	280	847	195	1138	90
649	426	849	336	1141	89
654	143	851	457	1143	237
671	432	859	438	1144	140
676	245	862	456	1145	42
679	503	865	151	1148	458
680	231	866	152	1153	141
695	121	867	20	1163	139
696	130	868	R39	1166	75
697	30	885	108	1176	273
698	276	886	R45	1181	441
700	120	892	436	1182	242

H.B.	*Ratified Number*	*H.B.*	*Ratified Number*	*H.B.*	*Ratified Number*
1185	47	1413	287	1652	470
1191	267	1414	233	1659	516
1193	110	1415	325	1671	541
1197	238	1425	R43	1685	473
1202	102	1449	174	1688	471
1213	321	1456	131	1702	542
1217	314	1460	435	1707	474
1227	76	1464	186	1718	475
1228	341	1471	464	1720	R50
1231	427	1473	323	1724	307
1243	100	1479	168	1737	349
1250	225	1482	199	1738	480
1259	461	1486	123	1739	466
1277	537	1487	200	1743	391
1294	459	1488	468	1755	383
1308	478	1492	146	1758	142
1318	R22	1499	497	1785	451
1321	290	1500	539	1786	490
1322	479	1517	540	1796	R33
1328	462	1519	92	1808	R34
1330	289	1529	467	1810	294
1338	247	1536	302	1817	352
1340	147	1537	442	1828	510
1347	196	1546	350	1829	416
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